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THE

TRIAL,

BY IMPEACHMENT,

OF

HENRY LORD VISCOUNT MELVILLE,

(i.e Melville, Henry Dundas, 1st Viscount)

FOR HIGH CRIMES AND MISDEMEANORS,

BEFORE

The House of Peers,

IN

WESTMINSTER HALL,

Between the 29th of April and the 17th of May, 1806.

To which is prefixed,

A SKETCH

OF

THE LIFE AND POLITICAL CHARACTER OF HISLORDSHIP,

AND A COMPLETE ACCOUNT OF

The Proceedings in Parliament

Relative to the Charges on which the Impeachment was founded.

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PREFACE.

IN this volume the public is presented with the progress and result of an important enquiry into the conduct of a nobleman, who having held the most dignified offices of the state, was impeached by the House of Commons, for corruption in the administration of the public money.

It was impossible to compress this work into any convenient form, and to include all the particulars adduced in evidence; it was therefore found necessary to select certain parts of the testimony, which are given in detail, while others are passed over more slightly, as containing matters of mere professional formality. On this account the introductory proof, to the conclusion of the second day of the trial, is considerably abridged; the subsequent testimony, to the commencement of the eighth day, is recorded with all the minuteness that a technical facility, known only to the English language, could enable the reporter to produce. This interval comprises the whole of the depositions of Mr. Alexander Trotter. From the eighth day to the conclusion, the evidence is again contracted.

The orations of the honourable managers, and of the learned counsel, unfold the grand maxims of British jurisprudence, and apply them to the case of the noble defendant; the importance of these suggested the propriety of introducing them nearly

verbatim

verbatim as they were delivered; it is hoped they will be found, not only interesting to public curiosity, but a permanent record of British eloquence, and a masculine display of British patriotism.

The promptitude, impartiality, energy, and talent, with which these proceedings were conducted, (to use the language of the speaker of the House of Commons) have rescued the Trial by Impeachment from the disgrace into which it had fallen, and restored it to its former dignity and honor. "It is," (says that distinguished member of the legislature) "the power of impeachment which has enabled the Commons of this country, at all times, to lay open the misdeeds of the highest servants of the crown, and to prevent or punish all inroads which may be made on the liberty of the subjects of this realm."

At a period when the ministry have recommended to the representatives of the people a new project for auditing the public accounts of the kingdom, and when it appears, that the sum of these accounts, unexamined and unexplained, composes an amount more enormous than the whole national debt, this investigation of the duties of an office, in which upwards of 150 *millions sterling were circulated under the administration of Lord Melville, will, it is presumed, prove peculiarly acceptable to every friend to the security, independence, prosperity, and glory of the British Empire.*

SKETCH

OF THE LIFE OF

VISCOUNT MELVILLE.

HENRY, VISCOUNT MELVILLE, is a descendant from a younger branch of a family long eminent among the lairds of Lothian. During a great part of the last century, his immediate ancestors have been distinguished as the ablest advocates of the Scottish bar, and they have successively attained to the highest honors and emoluments of the profession. His father, even while a young lawyer, was distinguished for discernment, elegance, and erudition, and his elder brother, the late Lord President Dundas, after advancing through a very splendid and successful career of practice at the bar, was raised to the first place in the supreme court of justice in his native country.

Henry, a younger son, and by a second marriage, was born about the year 1740, and was destined to seek his fortune in some professional pursuit. On his entrance into life he is said to have given an uncommon instance of disinterestedness and fraternal affection, in relinquishing his patrimony, which was not much more than 1000*l.* sterling, to his sister Christian, relying entirely on the exertion of his own abilities in that profession in which his family had been so successful. Though very young when he was called to the Scottish bar, he quickly rose to some distinction among the junior advocates. His advantages of birth and his personal recommendations were a favorable introduction to all the gay and fashionable society of the Scottish metropolis, and a disposition to enter ardently into the usual pleasures of the young, contributed to render his reception the more flattering. The indulgence of this propensity, however, unfitted him neither for business nor study, but seemed to make his application to both the more intense during the time it was bestowed upon them.

The General Assembly of the Church of Scotland, the only very numerous and popular court in that part of the island, has justly been regarded as an excellent school of deliberative eloquence, and young

advocates were therefore usually eager to obtain seats and to try their powers of oratory in it. In that assembly no speaker ever obtained greater admiration than young Dundas, who exhibited there some of the first specimens of those talents which he was afterwards to exercise on a more illustrious theatre.

During the progress of his practice at the bar, his sound understanding and prompt discernment obtained him not only the respectful attention of the ablest judges on the bench, but a continually increasing number of clients. He was far from confining himself to the acquirement and display of dry juridical erudition; on the contrary, his inclination and ability to blend with it the becoming elegances of literature procured him, while very young, the flattering esteem of the late Lord Kaimes, and such was the impression which the early promise of his talents made on the mind of that nobleman, that they obtained him the elegant and complimentary address in which his lordship dedicated to his young friend his excellent work entitled *Principles of Equity*.

A marriage with Miss Rennie, the heiress of the estate of Melville, in the vicinity of Edinburgh, brought Mr. Dundas a seasonable addition of one hundred thousand pounds to his professional emoluments, and facilitated the ascent towards that elevation which he has since attained.

Family interest, and those talents which command ample employment at the bar, recommended Mr. Dundas to the favorable notice of the crown, and under the administration of Lord North, he rose to the office of Lord Advocate for Scotland. He now aspired to a seat in parliament, and in 1774, was elected for the shire of Edinburgh which he continued to represent till the year 1782, when he was chosen for Newtown, in Hampshire.

The period of the entrance of Mr. Dundas into parliament was peculiarly favorable to the views of a man with the talents and character which he possessed. It took place at a time when the difficulties of government demanded the exercise of extraordinary powers in those who could influence its transactions, and when the embarrassments of a falling ministry seemed to promise every thing to the ambition of those who aspired to supplant them.

Being the first law officer of the crown of Scotland, it was natural that in the House of Commons Mr. Dundas should act as the advocate for the measures of the administration. With that prudent caution which has ever distinguished his career as a statesman, he, however, not only forbore to irritate the leaders of opposition; but by

an extraordinary species of political logic, even amidst the most violent conflicts of parties, he had no difficulty to infer that both were right---the one was right in general, and the argument of the other in a political view.

" No one could object that liberty in general was a good thing; he could not, therefore, withhold his admiration from the right honorable gentleman, (Mr. Fox) that he so well defended what might be considered the common cause of human nature. But, however excellent was liberty in general, nothing could be more dangerous when not applied with due regard to season and place. He could not, therefore, deny his strenuous approbation to the noble lord (Lord North) as, however opposite they might appear, they were evidently engaged in the same cause, and the principles of the one, and the practice of the other were, as such, equally laudable, and as such were equally entitled to his hearty concurrence." Such, if not the actual words, was at least the substance of the political logic and creed of Mr. Dundas.

To this accommodating disposition more than any other qualification, is to be ascribed the extraordinary success of Mr. Dundas in his political career. The administration under which he first brougl t himself into notice, being seconded by all the support of the court, continued for a time to maintain their seats, in despite of the general clamor of the country. But the ill success of the war with the American colonies, the triumphs of Washington, and the surrender of Cornwallis, excited in the minds of the public a thorough conviction of the insufficiency of the then existing councils for their own support. When, at length, the fall of that ministry appeared to be inevitable, Mr. Dundas strove to make himself master of some of the branches of the national business, in such an eminent degree, that, whatever changes might ensue, his aid might be too important to the new minister to be hastily slighted, his opposition too formidable to be carelessly provoked.

Accordingly, on the retirement of Lord North from power, Mr. Dundas was admitted as one of the succeeding administration; and, in spite of changes continued to enjoy his former consideration. On the death of the Marquis of Rockingham, the Shelburne party succeeded to the place of the Rockingham. The Earl of Shelburne, like his predecessor Lord North, was professedly the minister of the court, and had obtained his place as minister only by promises of compliance with its views. The relics of the Rockingham party rallying under the banners of Fox, and the family of Cavendish, in order to dispossess a

ministry whom they considered as renegadoes from their own party, united with that of Lord North, and thus formed the celebrated coalition. Of this faction Mr. Dundas was one of the most distinguished members. The divided ministry of the Earl of Shelburne could not support itself against this all-powerful union; it fell, but was soon afterwards revenged by the fall of its rival. Mr. Dundas was still a favorite of fortune, and after the ruin of the coalition, became one of the succeeding ministry of Mr. Pitt.

In all these contests and changes, in which he acted such a busy and important part, he obliged the contending parties to regard him as a man who, if in administration must have occupied no mean place, and if in opposition must have possessed the authority of a leader. During this period he was likewise retained as leading counsel in most of the appeals from the courts of Scotland to the English House of Lords, in which line of his professional duty he attracted considerable notice by the display of his legal knowledge, and the frequent proofs he afforded of his powers of elocution.

After the British affairs in America seemed desperate, the attention of the legislature was more particularly directed towards the affairs of India. Until the breaking out of the American war, the British dominions in the east had but in a slight manner attracted the notice of parliament. Loud complaints were at length made of the company's servants, who, carrying on wars, and levying tributes in the spirit of mercantile avarice, had excited the different powers of India against them; who, in their turn, pursuing their revenge by indiscreet policy, fomented conspiracies and rebellions among our allies and tributary states. In the work of retaliation no backwardness in the governor-general was to be feared. Every advice from India was filled with accounts of war and spoliations; of rajahs and nabobs dethroned, whom we scarcely knew by name; of provinces subjected to the British power, which we knew not where to look for in our maps. These wars, which had enriched the servants of the company, had not in the same manner recruited its finances; inquiry was instituted, and the truth, which was long expected, was at last brought to light—the company protested that it had never authorized wars for conquest, but had left all to the discretion of its servants; and they, in turn, alledged aggression and rebellion as the causes of their recourse to arms. A dissension in the supreme council of Bengal, soon threw farther light upon the subject, which forcing itself upon the consideration of parliament, was at length sifted to the bottom.

In this business Mr. Dundas took a leading part; a secret committee

mittee was nominated to enquire into the causes of the war in the Carnatic, and of the unfavorable condition of the British possessions in those parts. Of this committee Mr. Dundas was appointed chairman. In the report which he made from the committee, and in the formation of a bill which he soon afterwards brought into parliament for the regulation of the British affairs in India, his abilities for business were displayed to great advantage. The bill was defeated by the efforts of opposition; but, in the course of the enquiry by which it was suggested, Mr. Dundas had acquired a knowledge of India affairs, which powerfully contributed to his subsequent advancement.

It was objected to Mr. Burke, that his morality was too rigid for a politician, and that his advancement in court favor would have been more rapid had he not confined his efforts as a statesman within the narrow precincts of moral rectitude. Mr. Dundas appears to have concurred in opinion with the censurers of that great man; whatever may be thought of his politics in other respects, it is impossible to object with justice, that at any one period of his life, they have been too much narrowed by his morality. He had none of that, perhaps, false delicacy which averts from change as inconstancy, and of this his conduct in the business of India afforded a striking example. It is still upon record in what colors he painted the character and conduct of the governor-general; it is likewise equally well known, how soon from politic reasons, he changed his opinions concerning him, while the public beheld with astonishment the very man to whom they had once looked up as the redresser of Indian grievances, stifling all enquiry into the Nabob of Arcot's debts, by far the most corrupt and most avowedly flagitious of all the Indian peculations.

On the elevation of Mr. Pitt, in 1783, the assistance of such a man as Mr. Dundas was too valuable to the young and inexperienced members of the new administration to be neglected, and fortunately the latter never had any scruples about joining any man, or any set of men, who might happen to be in power. By his assistance, chiefly, the minister was enabled to gain over to his interest the leading members of the East-India company, at the most critical period of the parliamentary struggle, and afterwards to produce, with their consent, a system of India controul, differing very little in its essential tendency from the obnoxious plan of Mr. Fox.

The appointments of Treasurer of the Navy, and President of the Board of Controul of the East-India Company in the management of their affairs, with a seat in the cabinet council, were the first rewards of the seasonable services of Mr. Dundas, in the arrangement of the

new

new administration. The former of these offices he had before held, from the 27th of July, 1782, to the 2d of April 1783. It is not a little remarkable that, during this period he himself brought in a bill, which was passed into an act, for the better regulation of the office and salary of the treasurer of the navy, and that the alledged infringement of this act is the ground of his impeachment. Before the period of which we are treating, the salary of treasurer of the navy was two thousand pounds per annum, exclusive of perquisites, which were enormous. Many abuses had crept in through the misconduct of men in official situations applying the public money for their own private interest, and, in consequence, large sums had been lost to the nation. To prevent this peculation was the object of Mr. Dundas's bill; and, as a compensation for the loss of purquisites, the salary of treasurer of the navy was advanced from two to four thousand pounds, besides house, coal, and candle, making in all little short of five thousand pounds per annum.

The resolutions passed by the committee of the House of Commons, relative to this business, were to the following effect:

"That it appears to this committee, that on the 18th of June, 1782, the House of Commons, in a committee of the whole house, came among others to the following resolutions:

"That it is the opinion of this committee, that some regulations ought to be adopted for the purpose of lessening and keeping down the balances of public money, which appear to have usually been in the hands of the treasurer of the navy, and it would be beneficial to the public if the first and other clerks in the different branches belonging to the said office were paid by fixed and permanent salaries, in lieu of fees, gratuities, and other perquisites whatsoever.

"That it is the opinion of this committee, that from henceforward the paymaster-general of his Majesty's land forces and the treasurer of the navy, for the time being, shall not apply any sum or sums of money imprest to them, or either of them, to any purpose of advantage or interest to themselves, either directly or indirectly.

"That it appears to this committee, that the commissioners appointed to examine, take and state the public accounts of the kingdom, have, so far as appears from the reports hitherto made, discharged the duty entrusted to them with great diligence, accuracy, and ability; and if parliament shall carry into execution those plans of reform and regulation which are suggested by the matter contained in the reports of the said commissioners, it cannot but be attended with the

the most beneficial consequences to the future welfare and prosperity of this kingdom."

Such was the origin of the act, of which Mr. Dundas was the laudable mover; and it is not a little remarkable, that he should be the only treasurer of the navy accused of having infringed this law, since its enactment.

This measure, however, was not the only commendable one effected by Mr. Dundas, in his capacity of treasurer of the navy. He had not been long in that situation, before he procured an act of parliament to prevent the passing of forged instruments, and caused all wills and powers of attorney of seamen to be signed by the officers of the port, whose signatures are known at the navy-office. He likewise brought in a bill, for the purpose of empowering every seaman, while in the service of government, to remit six months pay to his wife and family; which has proved a great encouragement and inducement to them to enter into the navy.

In 1784 Mr. Dundas was again elected to represent the shire of Edinburgh, for which he sat till 1790,-when he was returned for the Scottish metropolis. At the conclusion of 1788, and the commencement of the following year, when the severe indisposition of the sovereign encouraged a proposal for the establishment of a regency, and threatened the removal of Mr. Pitt and his associates, Mr. Dundas steadily adhered to the interests of that statesman, and his co-operation was eminently useful to him in that season of difficulty and alarm.

To recount all the acts of the public life of Mr. Dundas, since the commencement of the late war with France, it would be requisite to write a complete history of this country, and, we may say, of the world. He has been the firm and invariable supporter of all the measures of Mr. Pitt's administration: and the honours and emoluments heaped in consequence of this adherence, upon him and his family, have been fully adequate to the services he has rendered.

On the introduction of the Duke of Portland into the ministry, the importance of the services of Mr. Dundas occasioned his being entrusted, in addition to his other offices, with the seals as secretary of state; for it was considered more eligible to create a third secretary, than to remove Mr. Dundas from the conduct of the correspondence relative to the measures and operations of the war. The plans for the formation of fencible regiments, the supplementary militia, the volunteer companies, the provisional cavalry, and all that military force which was levied and maintained during the war, for the internal defence of the country against invasion or insurrection, originated with

Mr.

Mr. Dundas, or fell in a particular manner under his consideration and management, in his character of secretary of state for the war department; and it cannot be denied, that means better adapted to the accomplishment of the objects in view, could not have been easily conceived.

He was long considered as holding virtually the power of minister for Scotland, and it is certain, that there was never less discontent against the government among his countrymen than during that period. The restoration of the forfeited estates, so well calculated to extinguish political feuds, was a noble measure, of which Mr. Dundas was regarded as the author. At the same time he was far from being inattentive to his own interests, as the numerous lucrative posts and emoluments bestowed on his immediate relatives sufficiently attest; while the extensive patronage attached to his official station invested him with almost unbounded influence over the northern division of our island.

Having devoted to the affairs of the East Indies a particular portion of his studies, his India budgets were always fraught with labor, and his calculations and statements were in general minute and correct. His situation of president of the Board of Controul gave him very great influence with the East India Company, and numberless were the young men, especially of his own country, who through his interest were promoted to places of emolument and trust. In the year 1800 he resigned that office, on which the directors of the East India Company came to a resolution to reward the services he had rendered to that great commercial body, with a pension of two thousand pounds per annum. On being apprized of the intention of the directors, he declined the offer, but at the same time signified, by letter, that if the annuity was granted to his lady (who is considerably younger than himself), it would be accepted. His wish was complied with by the directors, and the annuity was granted accordingly.

On the resignation of Mr. Pitt, and the other members of his administration, in 1801, Mr. Dundas likewise retired from office. He did not, however, like some others of his coadjutors, enter into a systematic opposition to the measures of his successors. The following year the friends of Mr. Pitt having been disappointed in their expectation of his returning to office, resolved to try the strength of his popularity. With this view his birth-day was celebrated in a magnificent manner, and a large subscription was obtained for erecting a statue to his honor. The friends of Mr. Dundas adopted the same measure at Edinburgh, and three thousand pounds were subscribed for the purpose,

pose, and which sum was placed at interest to accumulate till his demise.

Though foiled in the expectations of regaining the station he had lost, Mr. Dundas nevertheless kept on an amicable footing with his successors, and thus secured a peerage for himself, by the title of Viscount Melville, and several good situations for his friends and relatives. On the prospect of Mr. Addington's removal from power, he again began as usual to take an active part, and it was expected that through his assiduity a reconciliation would have been effected between Fox and Pitt, had it not been found impossible to include the former in the arrangement of a new ministry.

When, in 1804, Mr. Pitt was again called to the helm, his faithful friend and assistant, Lord Melville, received the important appointment of first lord of the admiralty; a post which, however, he was not destined long to hold. From his first entrance into public life, he had enjoyed without interruption the smiles of fortune, but now a political cloud, in the shape of the Tenth Report of the Commissioners of Naval Enquiry, intervened, to throw a gloom over his future prospects.

This commission for the enquiry into abuses in the naval department of the public service, had been instituted at the instigation of his lordship's immediate predecessor, the Earl of St. Vincent. It was composed of five gentlemen, who had authority to examine witnesses, and who, in the preparation of their Tenth Report, had found it necessary to call upon Lord Melville and the Paymaster of the Navy, Mr. Trotter, for information relative to various sums of money, of the application of which, during the treasurership of the former, they could find no account. On the manner in which his lordship replied to the questions put to him on this occasion, some observations were introduced into the Tenth Report, which on its appearance produced the following letter from Lord Melville to the commissioners:

"GENTLEMEN, *March* 28, 1805.

"Having read your Tenth Report, and observing particularly the following paragraph in the 141st page—'However the apprehension of disclosing delicate and confidential transactions of government might operate with Lord Melville, in withholding information respecting advances to other departments, we do not perceive how that apprehension can at all account for his refusing to state, whether he derived any profit or advantage from the use or employment of money issued for the services of the navy. If his lordship had received into his hands

such monies, as were advanced by him to other departments, and had replaced them as they were repaid, he could not have derived any profit or advantage from such transactions, however repugnant they might be to the provisions of the legislature, for the safe custody of public money."

"I think it necessary to state the following observations, in order to place in their just view the grounds on which I declined answering your question, and which you appear not to have accurately understood.

"When you first called upon me for information, I stated to you that I had not materials on which I could frame such an account as you required me at that time to prepare; and in a communication with Mr. Trotter, before my examination on the 5th of November last, I learnt, for the first time, that in the accounts he had kept respecting my private concerns, he had so blended his own private monies with what he had in his hands of public money, that it was impossible for him to ascertain with precision whether the advances he had occasion to make to me in the course of his running private account with me, were made from the one or from the other aggregate sums which constituted his balance with Messrs. Coutts. This circumstance, which I understood Mr. Trotter had distinctly communicated to you, made it impossible for me to return any other answer than I did to the general question which you put to me—'Whether Mr. Trotter had applied any of the money issued for carrying on the current service of the navy for my benefit or advantage?' and to this circumstance I uniformly referred in my answer to other questions respecting the manner in which Mr. Trotter applied the money in his hands.

"When you put the question to me, 'Whether I did direct or authorize Mr. Trotter to lay out or apply, or cause to be laid out or applied, any of the money issued for carrying on the current service of the navy, to my benefit or advantage?' my answer was, 'To the best of my recollection I never did.'—That answer I now repeat. Had you proceeded to enquire, Whether I had ever any understanding expressed or implied with Mr. Trotter respecting any participation of advantage derived from the custody of the public money, or whether I at any time knowingly derived any advantages to myself from any advances of public money? I should have no hesitation in declaring, as I now declare, that there never was any such understanding, nor any thing like it, between Mr. Trotter and myself; that I never knowingly derived any such advantages; and that whatever emolument accrued

to

to Mr. Trotter in the conduct of the pecuniary concerns of the office was, so far as I am informed, exclusively his own.

" With respect to any advances which Mr. Trotter might make on my private account, I considered myself as debtor to him alone, and as standing with regard to him in no other predicament than I should have done with any other man of business, who might be in occasional advance to me in the general management of my concerns entrusted to him. It is impossible for me to ascertain, from any documents or vouchers in my hands or now existing, what the extent of those advances might have been at any particular period. The accounts which you have inserted in your Report, I never saw till I saw them in the Report itself. They are no accounts of mine, nor am I party to them. They contain a variety of sums issued nominally to me, which never came into my hands, and they gave no credit for various sums received by Mr. Trotter on my private account from my salary as treasurer of the navy, and other sources of income, of which he was in the receipt, nor do they take any notice of the security of which he was in possession, for the repayment of any balance at any time due to him from my private funds.

" With respect to the sums of naval money advanced to me, and applied to other services, I do not feel it necessary to make any additional observations, except to declare, that all those sums were returned to the funds from which they were taken, having in no instance been withdrawn from it for any purpose of private emolument or advantage. Before I conclude, I wish to correct an inaccuracy which I observe in one part of the evidence in appendix No. 7, page 192. The question is put to me, ' Did you derive any profit or advantage from the use or employment of money issued for carrying on the current service of the navy, between the 19th of August 1802, and 30th April 1803; or between the 1st February 1784, and 31st December 1785, during which periods you held the office of treasurer of the navy?' Which question I there answer by a reference to the answer given to a similar question put to me before. This answer is inaccurate, in so far as it contains a reference to Mr. Trotter's mode of blending his funds in his private account with Messrs. Coutts. Mr. Trotter was not paymaster till the year 1786. This circumstance, therefore, relative to Mr. Trotter's account, which precluded my returning an answer to your former questions, does not apply to the periods specified in that mentioned; and I can therefore have no difficulty in declaring, that during those periods I did not derive any advantage from the use or employment of

public money issued for carrying on the service of the navy. Having stated these facts, it is almost unnecessary to add, that I am at any time ready to verify them upon my oath.

" I have the honor to be, gentlemen,

" MELVILLE."

To this letter the commissioners returned the following answer.

" *Office of Naval Inquiry, Great George-street,*

" My Lord, *April* 2, 1805.

" We have received your lordship's letter of the 28th of last month, by which you intimate that we appear not to have accurately understood the grounds on which you declined answering our questions, and submit to us some observations, in order to place those grounds in their just view, and also express a wish, before you conclude, to correct an inaccuracy in one part of your evidence, and a readiness to verify by your oath the facts stated in that letter.

" If it be the object of this communication, that we should again require your lordship's attendance, for the purpose of being examined touching these matters, and that we should make a Supplemental Report upon the result of that examination, and such other examinations as we might thereupon judge necessary, there can be no disinclination on our parts (as far as we are concerned in the proceeding) to meet your lordship's wishes: but it appears to us that the inquiry, which is the subject of the Tenth Report, has attained that period, when it would not become us to adopt such a measure, merely upon the suggestion of any one of the parties to whose conduct that report relates.

" We were occupied several months in investigating the mode of conducting the business of the office of treasurer of the navy. Those who were examined by us had the fullest opportunity of stating and explaining all things which related to the management of that department, or to the share which they respectively had in it; and of correcting at any time, during the progress of the inquiry, any mistakes which might inadvertently have been made. Our opinions and observations upon the irregularities and abuses which we discovered, were formed and drawn up with the utmost care and deliberation; and they are now submitted to the three branches of the legislature, as the act, by which we are appointed, requires. If it could be made to appear upon a representation to them, that any thing has been omitted on our part, that any misunder-

misunderstanding or error had occurred, and that a further inquiry is adviseable upon these, or any other grounds, it would be for them to direct such further inquiry, and to decide by whom, and in what manner, it should be prosecuted; but, in the present circumstances, it appears to us that we cannot with propriety resume it.

"We have the honour to be, my lord,

"Your lordship's most obedient humble servants,

"CH. M. POLE,
"EWAN LAW,
"JOHN FORD,
"H. NICHOLLS,
"W. MACKWORTH PRAED."

On Monday, the 8th of April, the important matters disclosed in the Tenth Report became the subject of legislative enquiry. In the House of Commons, Mr. *Whitbread* rose, and said, that it had originally been his intention to move, that the house should resolve itself into a committee of the whole house, to consider of the variety of matter contained in the Tenth Report of the Commissioners of Naval Enquiry; but as this might have been productive of some difficulty, and as he was determined that the discussion of this important subject should not be allowed to evaporate in a dispute about the forms, but be solely confined to the substance of it; he had changed his purposed mode of proceeding, into certain propositions grounded upon that report, which, before he concluded, he should have the honour to submit to the house. The honourable gentleman passed a high eulogium on the commissioners of naval inquiry. Feeling every due respect for all preceding commissions of a similar nature, he must be allowed to say, that the proceedings of none had been so honourable; that the labours of none had been so indefatigable; and that the result of the exertions of none had been so advantageous to the public, as those of the present. The house well knew that this commission originated in the board of admiralty, over which a noble earl presided; who, after combating and defeating the open enemies of his country upon the ocean, returned to explode those mines of corruption, the existence of which rendered useless the most brilliant victories. The commissioners had made various reports, all of which contained matter highly deserving of investigation, but on none of these reports had any proceedings been instituted. These commissioners had experienced greater difficulty in the execution of their office than any of their predecessors, he sincerely believed; and their merit was therefore greater. In the

course

course of their inquiries they had met with rude rebuffs in the different offices, through the corruption of which they waded; they had been violently opposed by the whole host of those whose depredations upon the public they were unveiling; they had been taunted with the appellation of inquisitors, and every possible means had been used, but in vain, to disgust them with the employment which they had so nobly and disinterestedly taken upon themselves; and he was as firmly persuaded that the public, whose interests had been so essentially served by their perseverance, amidst all these obstacles, would not be found deficient in gratitude. They had dragged into day facts which had eluded the vigilance of all former commissions; and it now only remained, to endeavour to bring to justice the delinquents whom their patriotic labours had so completely exposed to light. He was convinced that he need not descant on the importance of this subject. When any person had been incontestably proved to have flagrantly violated the law himself, and to have connived at the violation of it in others; when, in addition, he was exposed to the strongest suspicion of being an accomplice in the guilt, and a participator in the gains of such inferior culprits; if the house did their duty, they should at least arraign and censure him; and by so doing, confer the greatest benefit on their country. In the present exhausted state of our finances, it would show the people that the House of Commons were determined that the revenues should be frugally administered; that they would keep a watchful eye over those entrusted with the disposal of them; and that no man, however high his rank, or however sanctified by the public confidence of many years, should be suffered to infringe the laws enacted for their regulation, with greater impunity than what would attend the meanest depredator in existence. Should the house, however, not come to a decision on the subject; or should they, in defiance of the clearest evidence that could possibly be adduced of the guilt of an individual, agree to find him not guilty, what would then be the opinion of the people on their conduct? Would they not say, and say justly, "it is for the emoluments of your situations that you contend for them, and for those alone; regardless of justice, honour, or public virtue, you wish for the places of those who are accused before you, merely that you may reap the same iniquitous advantages: not from the laudable ambition of serving your country, but for the base and sordid expectations of gain?" The honourable gentleman here entered upon a long and close investigation of the Tenth Report of the commissioners. It contained matter in which Lord Melville, Mr. Trotter, Mr. Wilson, and Mr. Mark Sprott,

Sprott, were deeply implicated; some imputation of blame too attached to the Bank of England, who, according to the evidence given by one of their own officers, had issued money on the drafts of Mr. Trotter in an illegal and unjustifiable manner. If he had not been very much misinformed, the right honorable gentleman opposite came in for a share in the delinquency, for being privy to the practice of drawing the public money illegally out of the Bank of England, without having put a stop to it. With Mr. Trotter he should have little to do at present; at a future period he must become the object of a distinct charge. In bringing an accusation against Lord Melville, he was sensible he accused no mean person. The noble lord, during his whole life, had enjoyed a great share of the public confidence: for near thirty years he had almost constantly occupied offices, for which his industry and his talents had been supposed peculiarly to qualify him. During that period he had possessed more extensive patronage than any man in the kingdom; and of course both in and out of parliament, he was surrounded by friends and connexions, who were, he apprehended, more willing than able to defend him in his present situation. When the origin of that act of parliament, for the violation of which the noble lord now stood accused, was considered, it would be found to be attended with circumstances of peculiar aggravation. At the close of the American war, when the country was in the greatest distress, and when that distress was increased by the profusion which existed in all the departments of public expenditure, petitions were presented to parliament from all parts of the kingdom, in consequence of which certain resolutions were adopted by the House of Commons, on the motion of Lord George Cavendish. The honorable gentleman here read the resolutions of the committee of that period on this subject. They gave it as their opinion, that the *Paymaster General of the Army*, and the *Treasurer of the Navy*, should not be allowed, directly or indirectly, to use the public money lying in their hands for their own advantage. They deprecated the leaving of large balances in the hands of the treasurer of the navy; and suggested, as essentially necessary, to remedy the grievances complained of, that for the future the treasurer of the navy should be merely an accountant to the public. Immediately after the resolutions had passed, a reform took place in the *Navy-Office*. The salary of the *Treasurer* was only two thousand pounds a year: but then he was permitted to enjoy the interest of the balances in his hands; the salary was augmented to four thousand pounds, and all fees, emoluments, and advantages derived from the use of the public money, were strictly forbidden.

forbidden. Mr. Barré, the then treasurer, immediately paid all the balances in his possession, into the Bank of England: and proved, that from that period neither he, not any one of those under him, had received any emolument whatever of that description. To Mr. Barré succeeded Lord Melville in his first treasurership. Whether he kept the public money in the Bank of England, in an iron chest, or at his private banker's, it is impossible at this distance of time to say. In the extraordinary letter which he sent the week before last to the commissioners of naval enquiry, the noble lord declares he never derived any advantages from the use of it. Lord Bayning followed, and had made a similar declaration. On the 5th of January, 1784, Lord Melville again became treasurer of the navy, which situation he retained until the 1st of June, 1800, and it was to this period of sixteen years that the honorable gentleman intended to confine his animadversions. In 1785, the right honorable gentleman opposite to him proposed a plan of public retrenchment, founded on the report of the committee before mentioned, in which he held out the most brilliant prospects to the country; but unfortunately he was mistaken as to the character of the persons whom he had selected to carry this plan into execution. The noble lord had been one of the persons, and one too in whose praise the right honorable gentleman had been most loud. As if he had been solicitous to place himself apparently in the van of reformers, that he might with more facility suppress all reform, the noble lord himself introduced the bill for regulating the office of treasurer of the navy. The bill passed into a law, the language of which was so clear and determinate, that he would defy the most dexterous lawyer in the profession to torture the letter of it into any construction foreign to the obvious one. The preamble of the act stated it to be founded on the report of the committee, and intended to render the treasurer of the navy an accountant instead of a banker; by which means neither he, nor any of those under him, would incur the temptation of hazarding the public money in unsafe speculations. There was one provision in the act, the operation of which was to commence on the 1st of July, 1785, to which he wished particularly to call the attention of the house.—It was therein directed, that on that day all the public money in the possession of the treasurer of the navy should be deposited in the Bank of England, and that from that day no part of it should be issued from the Bank but on drafts, specifying the service for which it was intended. Lord Melville, however, on his own sole authority postponed making this deposit until the 1st of January, 1786. Why? Because forsooth, the arrangements in his office could not be

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completed before the time! What, not in six months! The falsity of the cause thus assigned for this shameful delay was evident, and impelled us to search for the true one. On the 31st December, 1784, the balance of the public money in Lord Melville's hands did not much exceed 70,000l.. He was directed by act of parliament to transfer this sum to the Bank of England on the 1st of July, 1785; but on the 31st of December, 1785, he had not done so, and the balance then amounted to above 113,000l. being an increase of 43,000l. No proof could be established; but the fair inference to be drawn from this delay undoubtedly was, that Lord Melville had withheld the public money from its proper destination for the purpose of his own private emolument. This transaction was comprehended in what he would call the first part of Lord Melville's second treasurer-ship. In the second part arose the facts which formed the basis of the charges against the noble lord. He would state them under three distinct heads.—The *first* was, that under his own authority, without the consent of parliament, and even in direct violation of the act of parliament, he had diverted to other public services the money appropriated by law to the naval department. *Secondly*, that he had connived at a system of peculation in an individual, who will hereafter be responsible for his own conduct, but for whom Lord Melville is now responsible. To these two charges he would confine the propositions which he meant to submit to the House to-night; but, unless what had been said could be unsaid, and what had been done, undone; there existed but too clear a proof that Lord Melville had participated in the fraudulent profits of his agent.—Should the House agree to his present motion, he pledged himself to prosecute this part of the subject still further. To the honor of men who have held high official situations in this country, it must be said, that a charge of a similar nature has not been brought for many years. The last exhibited was by Lord Melville himself against a gentleman who filled an important office abroad, Sir T. Rumbold. In a case like the present he did not conceive that there existed any necessity for a precedent; but if there did, he should be unwilling to follow that just mentioned, as he thought too much severity had been shewn in the proceedings. His intention was to move certain resolutions, grounded on the report of the commissioners, and coupled with resolutions of censure in the conduct of the noble lord. The House would afterwards have to consider in what way to proceed. It was highly material to consider the nature of the evidence that had been adduced. In the first place, the commissioners discovered that, in direct contradiction to the law, certain

enormous deficiencies existed in the department of treasurer of the navy, amounting at an average to about 43 or 44,000l. a year, (whether a little less or a little more was immaterial, it was not the sum, but the infraction of the law that rendered the transaction culpable.) On that foundation the commissioners raised their investigation. He should have frequent occasion to name Mr. Trotter in the course of his speech: he would therefore observe here, that what applied to Mr. Trotter did not apply to him alone; Mr. Trotter and Lord Melville were one and the same. It was but too clear that Mr. Trotter, having such a principal as Lord Melville, his lordship could not want such a second as Mr. Trotter. Having referred to, and read a part of the report of the commissioners, describing the nature of the office of treasurer of the navy, he observed, that in order to show the situation of aggravated delinquency in which Lord Melville stood, it was necessary to state, that the office of treasurer of the navy, subsequent to the act of parliament in 1785, was regulated by an order of council, on the motion of Lord Melville himself, drawn up by him, and presented to the king. This was on the 9th of August, 1785. The honourable member read the order of council, stating that the treasurer of the navy had submitted to his Majesty a plan for regulating the office, and carrying the act into effect, particularly with respect to the salary of the paymaster; that his Majesty had taken the same into his royal consideration, had been pleased to approve of it, and had given directions for carrying it into effect. There were two stages of aggravation in the conduction of the noble lord: first, his bringing in an act of parliament, which he had afterwards violated; and, secondly, submitting it as a mockery to the king; and from that time to the present moment, never attending to the act of parliament, or to the order of council, in any one way whatever. The first violation of the act, and of the order of council, was by those deficiencies, the existence of which had been proved.—Mr. Trotter, as paymaster, had been called upon to explain why such deficiencies had been suffered to exist. On this part of the subject he desired to say a few words, as to the evidence given by Mr. Trotter and the other persons mentioned in the report: some of them had undoubtedly given very fair and honourable testimony, which, as far as it related to facts, they wished to conceal, was fatal to them; and as it related to facts extorted from them, was equally fatal, because it was given under circumstances which attached to it the strongest degree of credibility, and must be taken to be completely true. He had heard it said, that this report was founded on *ex parte* evidence. He denied this

this assertion. If the facts alledged were not true, could not the persons examined have answered "No" to the questions put to them.—Would they not have said. "No, upon my oath, no." They were examined to the facts, and they sheltered themselves under the clause of the act of parliament, which he thought the commissioners ought not to have allowed them to have availed themselves of; but their having screened themselves under the terms of such a clause, formed the clearest evidence of their guilt. Mr. Trotter had been called upon to account for his deficiencies: first, he had said he did not know to what cause to attribute them; then he admitted he did know, and that they arose out of the public money having been applied contrary to act of parliament. The act of parliament had been violated, by the public money having been taken out of the Bank, and lodged in the house of a private banker, where Mr. Trotter insisted it became his private money, and he had arraigned the commissioners for presuming to examine into his private accounts. This was not only foolish, but dangerous conduct; for he had committed himself by it, even more than his principal. On his first examination, he had denied knowing any thing of the deficiencies; but soon after he began to find them out, and that they arose from his having taken the money to his private banker's, and advanced it to Lord Melville for other services; a circumstance which he pretended he did not know, till Mr. Long, an honourable member, had repaid him some of the sums so advanced.—He was really surprised Mr. Long had not been examined on the subject, and that the commissioners had not called upon him for some information; but, though they had neglected to do so, it was afterwards confessed, in a letter from Lord Melville, that the public money had been so improperly applied. A precept had been issued by the commissioners, requiring his lordship to account for the deficiency, and the application of the money to other services. The answer was most extraordinary, but it was of a piece with another letter written by his lordship at the conclusion of this business, and was certainly not of a nature to impress any man with an idea of the innocence of Lord Melville. Here the honourable Member read the letter from his lordship, dated Wimbledon, June 30, 1804, stating, that it was impossible for his lordship to furnish the commissioners with the account they asked, as he had been in the habit of assorting his papers, and destroying those that were useless. Now, a man coming before the public with such an assertion, that because he had been in the habit of assorting his papers, he had not any document to make out the account required of him, was altogether unworthy of belief. Could he

not, even from his memory, have furnished an account of what he had advanced? It was impossible for a man of his lordship's talents, and so much in the habit of recollecting past circumstances, not to be able to give some account of his balance. But it was a serious charge against him, that he had destroyed his vouchers. He maintained they were the property of the public, and it was consequently a high misdemeanor in the noble lord to destroy those papers, for want of which the public could not obtain the information that was necessary. He would ask, what had been the opinion of commissioners in 1782, as to the consequence of destroying papers?—Their endeavours in obtaining information had been frustrated. They stated in their report, that it had been customary for the paymaster to take his accounts with him out of the office—the committee were of opinion, that they should be left for the use of government and posterity; and therefore Lord Melville was highly reprehensible in suffering those papers to be taken from the Navy Pay-Office. But the noble lord had said further, that he could not give the commissioners the account they required, because, during a great part of the time he was treasurer of the navy, he held other very confidential situations under government, and was intimately connected with others. Undoubtedly he was connected with others. He was at one time *Secretary of War, Secretary of State, President of the Board of Controul, and Treasurer of the Navy!* He observes, that several "delicate and confidential" transactions had occured, which it was not consistent with his duty to reveal: his sense of duty should have restrained him, not from revealing these acts, but from committing them. The noble lord had held the situation of treasurer of the navy at a period most critical, when there were hardly sufficient means to pay the fleet that was defending our shores—yet had he, in contempt of the danger, ventured to turn the money to other services. The next article of charge is, his having connived at the public money being drawn from the Bank of England for private emolument, and thus having allowed an infraction of the law for which he is deeply responsible. Mr. Trotter confesses he did lodge large sums of money at Coutts's; because, he says, it was more convenient, and more secure; and, notwithstanding all the acts of parliament which expressly contradict his opinion, he thinks it was always intended that this should be permitted. That such a man as Mr. Trotter should make so weak, so absurd a defence, was not surprising; but that Lord Melville should imitate him, was really wonderful. After having himself introduced the acts, and the regulation before alluded to, how was it possible that the noble lord could have

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the face to say, that in a private banker's hands the public money was more convenient or more secure? It is much easier, he says, to give a draft on a private banker, than on the Bank of England. Why? Is not one as valid, and attended with as little difficulty as the other? As to security; it was a most extraordinary plan to seek security by going from a place where alone security could be found. If the Bank of England had failed, no responsibility would have been incurred by Lord Melville, because he was justified in placing the public money there; but the moment he went even to the most respectable private banker's, his responsibility commenced. Events might happen, not possible to be anticipated; the money might be lost, and then Lord Melville and Mr. Trotter would be overwhelmed with destruction. After all, however, the money had not been lying at Coutts's; it had been employed in discounting private bills, and in speculating in the funds. The house would be appalled when they reflected on the extent of the trust reposed by Lord Melville in Mr. Trotter. In the course of Mr. Trotter's continuance in office, Lord Melville states, that one hundred and thirty millions of the public money had passed through his hands. It had been proved, that, of this sum, fifteen millions had at different times been placed at a banker's.—That Lord Melville should have suffered this man to go on in such a manner, was of itself enough on which to rest his accusation. It was infamous that the pittance wrung from the necessities of the poor, should be sported with in the hazardous game of stock-jobbing. The only defence that Lord Melville could have set up (if any thing he could say on the subject deserved the name of a defence), was, that he had inquired into the accounts and proceedings of Mr. Trotter, and was satisfied with their regularity; but no, he knew nothing, he had examined into nothing. The sums with which Mr. Trotter speculated in the Funds were enormous, even by his own book, which of course would not contain a tenth part of them. Mr. Mark Sprott, who, by-the-bye, ought to have been compelled to answer all the questions of the commissioners, purchased for him in one day above 300,000l. Another broker transferred above 35,000l. Was this for the sake of security?—Lord Melville acknowledges in his evidence, that he knew all this; and yet when Mr. Trotter denied having made any use of the public money, he never came forward, as he ought to have done, and exposed the falsehood of his paymaster; a falsehood, indeed, that might have remained undetected to this day, but for the praiseworthy vigilance of the Commissioners of Naval Inquiry. If there were any who yet doubted that the treasurer and paymaster shared in the spoil of the

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public he would proceed to advance still more convincing proofs of their collusion. In the first place, the large sums of money paid to the account of Mr. Dundas, and which it would be difficult to explain in any other manner; and then that certain complexion which seemed to pervade the whole of the speculation. They were all lucky; this was a most suspicious circumstance, and indicated very strongly that an understanding existed between them to which Mr. Trotter was frequently indebted for secret intelligence. Not to mention again the private agency of Mr. Trotter, or the destruction of Lord Melville's papers, it must be recollected, that in the course of a few years upwards of one hundred and six thousand pounds had been paid into Coutts's, in the names of the Right Hon. Henry Dundas, Henry Dundas, and Mr. Dundas: now, whether these were all one and the same person, did not seem very doubtful. Allowing, therefore, that the whole amount of Lord Melville's salary for that space of time had been paid into Coutts's, it would have borne but a small proportion to such a sum as one hundred and six thousand pounds. Mr. Trotter was the most improper person that Lord Melville could have selected in the whole kingdom for his agent. What! make his paymaster his private agent! receive sums of money from that agent in advance, and then tell the commissioners that he really did not know whether such advance was from the public or from a private fund. Let us inquire a little into the history of this Mr. Trotter. When Lord Melville first became treasurer of the navy, he was a clerk in the Pay-Office; he was a man of tolerably good connexions, but by no means rich.—Lord Melville makes him his paymaster, and soon after (knowing his poverty) borrows considerable sums of money from him. Why, he must know that it was the public money from which these advances were made. Mr. Trotter had no other money to lend. When Mr. Trotter is asked whether or not he ever derived any advantage from the use of the public money, he replies, "I won't tell you." What was Mr. Tierney's answer to a similar question?—"No." Mr. Bathurst's?—"No." Lord Harrowby's?—"No." But when it came to Lord Melville, the same retort churlish is used, "I won't tell you."—Mr. Wilson too was equally taciturn; but he ought to have been compelled to speak. He had no doubt been influenced to silence by the threats and promises of his superiors. When Lord Melville gives his evidence to the commissioners, one should have thought that he would have come fortified by the destruction of his papers, fortified by a previous knowledge of the questions that in all probability would be put to him. But when he is requested to account for the deficiencies, with

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the cause of which the treasurer of the navy ought certainly to be well acquainted, he gives a long equivocal answer, and refers them to Mr. Trotter for information on the subject. But did Mr. Trotter afford this information?---O, no! When he came to Lord Melville's affairs, he stopped short at once, and wisely held his tongue. Could there be a stronger proof than this of their participation in guilt?---And yet Lord Melville pretends that it was only in June last that he became acquainted with the way in which Mr. Trotter used the public money. Lord Melville was by no means remarkable for the weakness of his memory, perhaps rather the reverse: but when asked, if he had derived any advantage from the public money, he replies, "not to the best of my recollection." The honourable gentleman alluded to the case of Mr. Jellicoe, and contended, that it was an additional proof of Lord Melville's sharing in the spoil of the public, as he had forborne to press the payment of Mr. Jellicoe's balance, apprehensive, no doubt, of making him an enemy. These suspicions were much confirmed by Lord Melville's last letter to the commissioners, an extraordinary production, and produced at an extraordinary period, four months after the delivery of his first statement, and on the eve of the present discussion. In the outset of this letter he thinks it necessary to re-state the grounds of his former answers, with which the commissioners were sufficiently acquainted. He proceeds, and again complains of his want of recollection. He then asserts, that he never, "knowingly," derived any advantage from the public money, either directly or indirectly, through the medium of Mr. Trotter; that is, he borrowed money from a man, who, when he first knew him, was worth nothing, and whose last dividend exceeded eleven thousand pounds, and yet did not "know" that such loans must have come out of the public purse. The destruction of Lord Melville's private papers was a most suspicious circumstance, especially when corroborated by that of Mr. Trotter's ledger, in which the accounts of all his employers and connexions must have shared the same fate. But when to these were added the loss of Mr. Jellicoe's writings, it was impossible not to feel complete conviction of Lord Melville's guilt. Having dwelt for some time on this topic, the honourable gentleman proceeded to comment on his lordship's letter, and contended that it left him precisely in the same situation in which he was placed by the report. There were many points which he had left untouched, from an apprehension of exhausting the patience of the house. If, by the manner in which he had conducted himself on this occasion, he had departed from that moderation with which he proposed to regulate himself, it was matter

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of sincere regret to him. But he trusted the house would act in a manner consistent with its dignity in disposing of this question. Not only the character of parliament, but of every individual member of the house was concerned. It was due to the country to prove, that no man in power, no person high in office, or placed in a situation of trust or responsibility, could with impunity violate the law, or prove unfaithful to their duty. He had no wish to wound the feelings of any gentleman, but he was confident he should obtain the support of every member in the house, except the relatives of the noble lord, who could not be expected to vote for his propositions. He could not conceive it possible for any other description of persons to oppose them. The country gentlemen, ever distinguished guardians of the public money, could not lend their assistance to shelter from the vengeance of the house, any persons guilty of great malversation in the management of the public money. Neither would those honourable and distinguished officers of the army and navy, who were members of that house, give any encouragement to transactions inconsistent with the noble sentiment of honour with which they were animated. They would be the first to stigmatize a flagrant violation of the law. He called upon the house to recollect, before they should come to the vote, the circumstances under which the offences he charged had been committed. He called upon them to contemplate the magnitude of the taxation with which the country was burthened: he wished the house to consider the situation in which the country now stood. From various circumstances of peculiar hardship, nay, the grievances that had already occurred, the more opulent were obliged to part with their superfluities in order to contribute to the support of the indigent and the poor, and to carry on the war in which we were engaged. Every class of the community was struggling: the means of the poor labourer were extorted; for at every meal he took he suffered from that most grievous system of taxation which now existed, every object being taxed which could afford a single farthing. We had been told that such exactions were absolutely necessary for the present circumstances of the country; but what situation were we to be placed in, could we not prove that a proper use had been made of the money so collected? It was alone by the punishment of such delinquents that the House could prove to the public that they attended in every particular to their interests. The honourable member concluded with reading his resolutions, in substance as follow :---

1. That

1. " That the House of Commons, in the year 1782, came to certain regulations respecting the Treasurer of the Navy, prohibiting him from keeping any balances of public monies in his hands, and fixing a permanent and increased salary in lieu of fees and emoluments. Likewise prohibiting any Paymaster or Treasurer of the Navy from making use of the public money, or directly, or indirectly applying the same to his own personal advantage or private emolument: and further, that the House was of opinion, that the Naval Commissioners had acted with honor to themselves, with benefit to the community, and in a way calculated to ensure the prosperity of the kingdom.

2. " That in the month of June 1782, the salary of the Treasurer of the Navy was increased to 4000l. per annum.

3. " That the resolutions above recited were strictly complied with by Mr. Barré, who, it appeared, had not derived any emolument or advantage from the public money; neither had Mr. Douglas, the Sub-accountant.

4. " That on the 19th of August 1782, Mr. Henry Dundas succeeded to the office of Treasurer of the Navy, with a fresh increase of salary.

5. " That he continued in office till 1783, and that on being asked by the Naval Commissioners, Whether during that time he had made use of the public money for purposes of private emolument? he had declined to answer the question, but in a letter subsequently written he had stated, that he did not derive any personal advantage from the public money.

6. " That Lord Bayning held the office after that period, and did not apply the public money to private advantage.

7. " That on the 5th January, 1784, Mr. Henry Dundas again came into the office of Treasurer of the Navy.

8. " That in 1785, an Act passed, regulating the sums of money placed at the disposal of the Treasurer of the Navy, that the same be lodged in the Bank of England, &c.

9. " That the execution of the said act (the act of 1785, for better regulating the office of Treasurer of the Navy,) was postponed till the month of January, 1786, and that from that time till the month of June 1800, when Lord Melville left the office of Treasurer, contrary to the practice established in the treasurership of the Right Honorable Isaac Barré, contrary to the resolutions of the House of Commons of the 18th of June, 1782, and in defiance of the above-mentioned act of the 25th George III, chap. 31, large sums of money were, under

pretence of naval services, and in scandalous evasion of the act, at various times drawn from the Bank, and invested in Exchequer and Navy Bills, lent upon the security of stock, employed in discounting private bills, in purchasing Bank and East India stock, and used in various ways for the purposes of private emolument.

10. "That Alexander Trotter, Esq. the Paymaster of the Navy, was the person by whom, and in whose name the public money was thus employed; and that in so doing he acted with the knowledge and consent of Lord Viscount Melville, to whom he was at the same time private agent, and for whose use or benefit he occasionally laid out from 10 to 20,000l. without considering whether he was previously in advance to his lordship, and whether such advances were made from his public or private balances.

11. "That the Right Honorable Lord Viscount Melville having been privy to, and connived at the withdrawing from the Bank of England, for purposes of private interest or emolument, sums issued to him as treasurer of the navy, and placed to his account in the Bank, according to the provisions of the 25th George III. chap. 31, has been guilty of a gross violation of the law, and a high breach of duty.

12. "That it further appears, that subsequent to the appointment of Lord Melville as Treasurer of the Navy, in 1784, and during the time he held that office, large sums of money issued for the service of the navy were applied to other services; and that the said Lord Melville, in a letter written in answer to a precept issued by the commissioners of naval inquiry, requiring an account of money received by him, or any person on his account, or by his order, from the Paymaster of the Navy; and also of the time when, and the persons by whom the same were returned to the Bank, or Paymaster; has declared that he has no materials by which he could make up such an account; and that if he had materials, he could not do it without disclosing delicate and confidential transactions of government, which his duty to the public must have restrained him from revealing.

13. "That Lord Melville, in applying monies issued for the service of the navy to other services, stated to have been of so delicate and confidential a nature, that in his opinion no account can, or ought to be given of them, has acted in a manner inconsistent with his duty, and incompatible with those securities which the legislature has provided for the proper application of the public money."

The *Chancellor of the Exchequer* employed every argument which his powerful eloquence could enforce to defend Lord Melville; and then

concluded as follows:—For his own part, he was desirous that the House should look at the whole of the case in all its circumstances and bearings, and then do, without delay, whatever the interest of the public, a just sense of their own duty, and the nature of the case may require. For this purpose, he thought the best course to pursue would be to refer the report to a select committee, inasmuch as there were many points contained in it which required further explanation. The honorable member had dwelt with much earnestness on the application of certain sums for the accommodation of other branches of the public service; but in his own view of the question, the house was not in a situation to decide upon that transaction. Did the honorable gentleman mean to say, that in judging of this transaction, the House was not to take into its consideration the excuses, the motives, the circumstances, and the necessity of the transaction? Was the House, knowing only the bare fact, that the application of the money in such a manner was a violation of the law, to decide upon its merits without taking into consideration whether any loss had arisen from it, whether the motives were justifiable, wanton, or necessary; whether the circumstances were such as to warrant a departure from the letter of the law; and what the magnitude of the transaction? It would not be necessary for him to argue the propriety of permitting such a latitude with Englishmen, or with persons of liberal and enlightened minds; for he was confident that all such would agree with him, that cases might occur when the circumstances under which such a transaction might take place, would make it meritorious in the public officer to incur the heavy responsibility. This he stated, with a view to the stress that had been laid on the application of a particular sum to a different service from that for which it had been voted. There was an allegation in the report on this head, and the honorable gentleman had stated a particular sum as having been advanced in this way, and afterwards repaid by his honourable friend (Mr. Long). He had himself been a party to that transaction, and he should be ashamed to address the House on the subject, if he could not explain the matter, as related to the share he had had in the business, to their entire satisfaction; so that however illegal the application might have been in the first instance, and he was ready to take that for granted, it would appear to have arisen from considerations of public interest, and to have been transferred from the service for which it had been voted only for a time, and, without any other inconvenience or loss, replaced afterwards. It was impossible to disclose the circumstances under which it had been applied; but if the House

would consent to appoint the committee, he should produce the most convincing statements, so far at least as he was concerned. The whole sum particularized amounted to 100,000l. out of which two different sums of 40,000l. each had been drawn with his privity, under circumstances which he could fully justify to the house; and as these sums made the much greater part of the whole sum specified, there was every reason to think that the whole had been applied in a manner equally justifiable. The noble lord had, at that time, other high official situations, and might have had occasion, and could, without his privity, have applied sums occasionally to a different service from that for which they had been voted, with a view to the public interest; and though he was not in possession of the circumstances, he had no doubt that the noble lord could satisfactorily account for the transaction. As to the other part of the honourable gentleman's charge, that Lord Melville had connived at the paymaster of the navy keeping the public money in his hands, and applying it to purposes of private profit, he confessed that this appeared to him a fit object of attention, when they should come to consider the question in the whole of its bearings. He was prepared to admit, that the conniving at such conduct in a paymaster of the navy was not justifiable, but thought, nevertheless, that much would depend on the circumstances, the extent, and the danger that had been incurred. He maintained that the commissioners had not stated, that the issue had been greater than the service required; and he insisted, that from their report it was evident that they believed that to be the case. It was also agreed to by them, that the public money had not been applied so as not to be ready to satisfy any demand or sudden emergency; and they had not even insinuated that any effect had been produced in the increase of expence, or the aggravation or augmentation of additional burthens; nor had they attempted to charge, that any demand of any individual had been a single moment retarded. As to this application of the money to private purposes of profit, it did not appear that Lord Melville had been aware of it; the hon. gentleman, however, had dwelt much on this circumstance, founding his observations on the intricate accounts of the commissioners, by which it appeared that he had not considered the matter in detail. The commissioners had stated, that various sums had come into the bank of Messrs. Coutts, which had not been procured by draft on the bank, and they had supposed that these consisted of sums for the services *in transitu*, applied in this way. One million had been particularly specified. But that million had been brought directly from the bank to the house of Messrs. Coutts, by one of the forms of draft prescribed

scribed by the statute, and the whole of it had been issued thence in the course of a few days, to take up navy bills then due. So that this was one instance of an error, on which they had rested much, and which being capable of being thus satisfactorily explained, proved the necessity of further investigation. The sums that had been vested at Messrs. Coutts had been neither lodged there for the benefit of the treasurer of the navy or of the navy paymaster, but in the course of office; and this was another error of the report, for the same practice prevails at present of drawing in gross from the multiplicity of paying all the small sums by drawing in detail. The act of parliament directed no such drafts for small sums, but for sufficient sums to enable the paymaster from day to day to issue the necessary sums to the sub-accountants, so that the balances in hand appeared not to contravene the law, but to be in direct conformity with it, and necessary for the management of the business of the office. The question, therefore, was, Whether more had been issued than was necessary, whether an expence to the public had been the consequence, or an increase of issue? The house was aware that no money was issued to the treasurer of the navy, but on memorial from the different boards, and that consequently the treasurer would have no power of increasing the issues to him. (The right honourable gentleman here described the operation by which the treasurer of the navy drew money from the bank, and proved thence that it is not in his power on any occasion, or under any circumstances, to draw for more than the occasion of the different boards require). In the next place, the commissioners had divided the time during which Lord Melville had been in office into two periods, in making the average; instead of making the average for the whole of the time of his being in office. The first period they calculate up to 1796, the next to 1800; so that they had not given the average on the whole, nor distinctly in the separate periods. They calculated the balances on the first period at 45 average, and the last at 33, but they had taken the amount of the gross balances without deducting the assignments. When the commissioners had stated ten day as the number that ought to be in advance in the paymaster's hands, they calculated it exclusive of the out-posts; and if the money at the out-posts were to be deducted, the balances would be in the first or the most favourable period, an average of seventeen days, and in the latter period an average of eight days; and on the whole period the average was but fourteen or fifteen, five only more than the commissioners had thought necessary, and nearly the same number that the clerk had stated in his examination. Now if it should turn out that this

statement

statement was correct, he could not admit a doubt that it would be sufficient to determine the house and the public to examine more narrowly and minutely into the matter and allegations of the reports before they would ground upon it either censure or disapprobation. There were four different errors in this single statement, and these proved unanswerably the necessity of a fuller investigation. This could not be prosecuted in the whole house, nor with the speaker in the chair, it could only be followed up with effect in a select committee. If the investigation should be proceeded with, he was convinced that many sums stated to have been paid in the name of Lord Melville would appear to have been applied to official purposes: how far that was the case it was not for him to anticipate then, before the inquiry should be instituted. The house would determine for itself when the investigation should take place. Before they could judge whether any sums of public money had been so advanced, they should see the credit account of Lord Melville, they should also see the different sums paid in by Mr. Trotter, for Lord Melville, on account of his salary as treasurer of the navy, as also an account of his unappropriated salary as keeper of the signet in Scotland, and for dividends in the funds. Would gentlemen under these circumstances give way to surmises? Would they think strange that Lord Melville, knowing that he had no contract with Mr. Trotter, no participation with, and knowing also the unfortunate way in which Mr. Trotter kept his accounts, had declined answering until he had ascertained the state of these accounts. And if it should appear even that a few thousands had been by inadvertence so advanced, could any gentleman suppose that that would have been any object to a noble lord in a high and distinguished office of trust and honour? He would not think it possible for a liberal and enlightened mind, for even common sense to entertain such an opinion. If so, then he contended, that the materials before the house were insufficient to form a final judgment, and that a further investigation was absolutely necessary, and that such investigation could not be conducted in the house, but in a select committee, which could be managed without much delay. With these sentiments, he felt it unnecessary and improper to say more on the subject. He should therefore move, as an amendment, that " the Tenth Report be referred to a select committee," &c.

Mr. *Fox* suggested the propriety of moving the previous question, rather than an amendment, in order that the previous resolutions might be entered on the journals.

The *Chancellor of the Exchequer* had no objection to the course proposed,

posed, as he should thereby obtain the substantial object of his motion; and understanding, however, that if the previous question should be agreed to, he should afterwards move for the appointment of a select committee; he then then moved the previous question. On the question being put,

Lord *Henry Petty*, at the same time that he acknowledged it was impossible for him to follow the right honourable gentleman through the vast range he had taken in his view of the subject under discussion, was anxious to state the ground on which he supported the original motion. He had never felt greater surprize than when he heard the right honorable gentleman alledge that his honorable friend (Mr. Whitbread) had travelled out of the record of the facts in the statement which he had laid before the House. This must be matter of surprize to the House also, when the whole of his honorable friend's charges, except the concluding ones, were merely matter of fact, and nothing but matter of fact. In truth, the whole of what had fallen from his honorable friend, was either matter of fact, or plain and immediate deduction from fact. The right honorable gentleman urged, with a view to induce the House to agree to the appointment of a select committee to enquire into this subject, that the attempt was made to influence the passions of the House, and that the subject involved a great deal of complicated details of figures. In considering this latter point it was necessary the House should recollect, that any confusion that existed in this way, arose from the irregular manner in which Lord Melville and his Paymaster kept their accounts. It was obvious, however, from the plain matter of fact, that there had been a violation of the act of parliament. The right honorable gentleman opposite was liable to a charge of having omitted facts in his statement. He had omitted the very material fact that Lord Melville had allowed he had violated the act of parliament, by permitting his Paymaster to withdraw large sums from the Bank of England before they were actually wanted, and to keep them at his private banker's. One part of the ground for proposing a select committee was, that part of the money voted for navy services had been applied to other public services; and the other ground was, the existence of complicated details of figures. Was this direct violation of the law included in either of these descriptions? He had no objection to a select committee in the proper time. On the contrary, he should be disposed to support the appointment of such a committee, when the motion of his honorable friend should be agreed to, and the House should have come to a determination on the plain and obvious fact. Then a committee would be proper to consider

sider of the expediency, and the means of pushing the enquiry further, and he should be happy to contribute his small share to the institution of a committee for so laudable an object. But first let the House consider what was before it, and let it consider that what Lord Melville admitted in one place, he could not deny in another; that he could not deny before a committee of the House what he had avowed before the commissioners of inquiry; and let gentlemen then ask themselves what necessity there was for delay. The House could at once pronounce on the breach of the act of parliament, and then it might examine more minutely in a committee the circumstances of the transaction, and the precise amount of the criminality. The right honorable gentleman argued that the public sustained no loss by these transactions, at the same time that he allowed this did not excuse the delinqnency, though it extenuated the offence. He did not think it was any extenuation. He thought there was not only risk to the public, but positive loss. He distinguished between public loss and precise loss; for though the precise amount could not be ascertained, the fact that there was a loss was beyond all question. The right honorable gentleman had gone into great detail to shew that the Paymaster did not draw the money from the Exchequer before it was wanted. But in this statement the right honorable gentleman had reduced himself to the following dilemma:—He stated that the money was not removed from the Exchequer before it was wanted for naval services; at the same time that he allowed large sums were given in accommodation from the navy to other branches of the public service. How was it possible this accommodation could be given, unless larger sums were kept in the Paymaster's hands than were wanted in navy services, except indeed the navy service was distressed and defrauded to allow the advance? If the money were once allowed to be drawn, it might be allowed to private as well as to public purposes; and if the door were once opened, it was impossible to set limits to the abuse it may let in. The speculations of Mr. Trotter had not failed, but that was no excuse for putting the public money to so unwarrantable a risk. The success may besides be accounted for in another manner, by means of the connection or combination that existed between the three individuals concerned. Mr. Mark Sprott touched the funds, and Lord Melville the secrets of state, and Mr. Trotter touched both these persons. Millions were thus managed in that nice and delicate machine of the public funds; though, at that time, combinations of another nature were much talked of; no Jacobin conspiracy that did exist, or could have existed, was calculated to do more than

this

this conspiracy between these three persons. The noble lord had represented, that when the committee of 1788, in prosecuting its inquiries as to the administration of the public offices, came to that of the treasurer of the navy, Lord Melville being called upon by the committee, respresented the regulations for bringing up the arrear in that office, and preventing any future arrear, were in full effect. This statement was opposite to the fact; for at this very time the accountant's branch, which had been instituted with a view to this object, having come up to that period when it was to take cognizance of Lord Melville's own administration, stopped suddenly short, and its labors were no more heard of. The account of Lord Melville's first treasurership was not made out till last year, and the remaining part of the account at the time the noble lord was in office, was still unprepared. The reason given for this was, that the clerks employed in this duty being borrowed from another department, and being withdrawn, the business could not proceed. It was evident from what Lord Melville had stated to the committee, that the benefits of the acts then lately made were carried into full effect. This was, however, very remote from the fact. The act of parliament went to provide, that the public money was to be kept in the Bank, and that no public office was to be made a public treasury; and yet Lord Melville had, to all intents and purposes, made his office a public treasury. He dwelt on the systematic deviation from the law that had so many years prevailed in that office, and asked, whether this was a case from which the House would turn away, referring the matter to a select committee without coming to a vote? As to whether the prominent act was right or wrong, or whether the noble lord was fit still to hold a high and confidential situation in the government, there was no difference between the situation in which the noble lord stood with respect to the House and country, and that in which any man may with his private agent. The house ought to consider for a moment what was the nature of this illegal combination between three persons, one of whom was touching the funds, and the other two the secrets of state. There was Mr. Mark Sprott, who enjoyed the confidence of Mr. Trotter; Mr. Trotter, who enjoyed the confidence of Lord Melville; and Lord Melville, who enjoyed, too long enjoyed, the confidence of the public. These enormous sums were therefore carried to the stocks, and there employed in a private point of view for individual emoluments and in a public point of view they were used to keep up the national credit. From such a combination what dangerous consequences were likely to result! At the period when these

combinations existed, there were also others existing of a different nature. There were combinations existing in this country, denominated Jacobinical: but he believed that never was there one of a more dangerous, insidious, and mischievous nature, than the one which was now discussing. There appeared to have been a systematic deception on the part of the conspirators. His lordship then read extracts from some letters by Lord Melville, to shew his inconsistency. The principal intention of the resolutions passed in 1786, was to regulate the disposal of the public money, and to prevent public offices from becoming public treasuries. Lord Melville must have known that these regulations were by him regularly and systematically violated for ten years preceding. If such a statement were true, why should the house not come to a resolution, declaring such persons unfit for any office of trust? He confessed he saw no reason why they should act otherwise than any private individual would do to his agent, who had been guilty of such gross malversation. Were Mr. Sprott to omit paying 10 or 12,000l. to Mr. Trotter; or, in other words, to appropriate that sum to himself, by taking the use of it for his own emolument, would not Mr. Trotter immediately discontinue him as his agent? Mr. Mark Sprott might then say, I never meant to obtain any profit from that sum, it was only retained on account of the intricate manner in which we kept our accounts. What broker in London would be allowed to keep his accounts in that state, that he could not ascertain whether he had a balance in his hands or not? The people of England, who pay these public servants most liberally, and in no instance more so than in the present one, have surely as good a right to expect that they be as justly and regularly served as any broker on the Stock Exchange can serve his employer. If, from any part of Lord Melville's deposition—if from any part of that extraordinary letter, written several months after his lordship's examination (enemies only of the legality of Lord Melville), he could entertain any doubt as to the possibility of his being able to disprove his statement, he would vote for a select committee. But how was it possible to have any opinion in the smallest degreee favorable to his lordship from such a statement? What had the right honorable gentleman said to do away the criminality? Acting as his lordship had done, in violation of an act of parliament, he (Lord Melville) had put himself in that situation, that no man could lay his hand on his heart, and pronounce him innocent. When he looked at his lordship's letter, it recalled to his remembrance the celebrated oration of Cicero against Piso, in which that orator breaking off from his argument, proving the guilt

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of Piso, says—" But who is more condemned, or more guilty, than you are, who dare not write, nor say, that you are innocent?"

" Quis te miserior qui nequis scribere rempublicam bene gestam, qui presens neque dicere ausus es?"

If the noble lord, on the passing of his act for restraining this very evil, had been told that not a year would pass when that act would be violated; when it would be violated by a treasurer of the navy, and that that treasurer of the navy would be himself, what would he have said? But if the prophecy had been carried further, and it had been said, that not only would the violation be made by a treasurer of the navy, but that after that violation had been for fourteen years unnoticed till discovered by a commission of inquiry, and when at length the detection of it lay recorded on the table of the House, the House would be so culpable that it would be glad of getting rid of it by any means rather than pronounce upon it as it ought. He had too good an opinion of those of whom the House was composed, to think this business would be so passed over. It would indeed be fortunate if abuses were never detected, rather than that it should appear that when ministers violated the most express and immediate laws for preventing abuses in their departments; that when the diligence of the commissioners had brought forward this delinquency, parliament should come in between law and its violator, and screen the delinquent from justice. This was the worst precedent that could be established in any country. A prompt declaration should be made on this subject. He therefore voted, in the first instance, for the motion of his honourable friend, with the intention, that after the primary resolution should be agreed to, inquiry should be instituted, and vigorously pursued.

The *Attorney General* said, if it were a necessary alternative that the supposed delinquency should be punished now, or that it should escape altogether, the propriety of coming to some resolution, at the present moment, may be more reasonably insisted upon. He doubted whether the noble lord would, on reflection, think it right to proceed to judgment, without the fullest investigation of the facts. It was agreed on all hands that inquiry should take place. The noble lord wished a separate decision on one point. Was any point so insulated as not to be still connected with the whole? While there were such important grounds of inquiry, the house should not be called upon to pronounce judgment when conviction was so remote, at the same time that further inquiry could have no ill effect.

Mr. *Tierney* complimented his noble friend. It was a matter of pride to any man to be allowed to call himself the friend of such rising talents and eloquence. He agreed with him, that nothing was more fit than to appoint a committee after the first point should be agreed upon; a committee in which all that related to accounts and calculations may be sifted and made clear. The transfer of money from one service to another was also matter for a committee, but what was to be done with the remainder of the tenth report? Did Lord Melville ask for any further delay, saying he had evidence sufficient for his acquittal? Did Mr. Trotter say any thing to that effect? But the people of England looked to this night for the opinion of their representatives on this important case. He would ask the right honourable gentleman how long it was since the expedient of a reference to a committee occurred to him? The right honourable gentleman had expressed his anxiety to have the letter of the noble lord before the House previously to their coming to any determination, as that letter, he had stated, would throw very considerable light on the subject; and now his anxiety was to have a committee appointed for investigating the subject. But the question, he contended, was by no means complicated. There was not a single gentleman present, he apprehended, who could from his heart avow it as his opinion, that any proof could be brought to show that money had not been diverted from the public service, and removed from the Bank in opposition to the most express and positive declaration of parliament, What occasion then was there for an inquiry? Would Mr. Sprott, who was silent when examined upon oath, speak more plainly when not upon oath, before a committee of the House? or ought they to give more credit to his evidence in the one case than in the other? No evidence which they could take from the parties not on oath, could invalidate that which had been taken before the commissioners on oath. For what purpose besides should parliament appoint commissioners for this express purpose, if their conclusions were not to be relied on without repeating the inquiry. They had been employed six weeks in this investigation, and had heard all that Lord Melville had to say in his defence, before they published their report; and what was curious, not one of his lordship's friends had yet dared to say that he was innocent. All they pleaded for, was time. But the examination of the accounts could afford no ground for this plea, for this examination might be necessary only to determine the sums to be refunded, but not at all for criminating the parties. In regard to the transfer of money from the Bank of England, the noble lord did not deny his knowledge of this practice, nor was it at all natural

tural to believe that he would have allowed it for a period of twelve years, without participating in the profits; and it would have been more generous in his lordship, he thought, instead of evading the question to the prejudice of Mr. Trotter, to have at once frankly avowed that the practice had been continued by his authority, as well as with his knowledge. The right honourable gentleman concluded by observing, that the documents laid before the commissioners had been afforded by themselves, and that therefore if it could be called *ex parte* evidence, it was because it was all on the side of the accused. He commended the conduct of the commissioners, and was proud to have been one of an administration that had virtue enough to appoint them. The question put to them by the motion of the right honourable gentleman, in short was, Whether they should have confidence in those who had detected, or those who had profited by the frauds that were the object of the inquiry?

Mr. *Canning* wished to offer some reasons that induced him to second the motion of his right honourable friend.

Mr. *George Ponsonby* was decidedly in favour of Mr. Whitbread's resolutions. He observed, that it was a monstrous proposition to maintain there had been no criminality, because there was no loss.---The right honourable gentleman opposite to him had acknowledged, that sums of money had been taken contrary to law, and applied to a particular purpose. Why was not that circumstance mentioned at the time in the House of Commons, and a bill of indemnity applied for? It was said, that attempts had been made to inflame the public mind against Lord Melville, by the circulation of libellous hand-bills. Then it was the business of the attorney-general to prosecute the authors of them; but it was no reason that the House should stop short in its present inquiry, because there were libellers in the country who circulated offensive hand-bills. He insisted that Lord Melville and Mr. Trotter ought not to be suffered to walk quietly about the streets, without an account being taken of their property, in order that they might be compelled to refund what they had taken from the public; and bills ought to be brought into parliament, to disable them from disposing of their property while the present question was agitated.---There never was a period in the history of the country in which the character of the House of Commons was so involved as the present. He hoped that those members of the House who represented the same part of the kingdom with himself, would consider the peculiar situation they were now placed in---that they would now give the people of England a proof of their spirit and independence, by voting for the motion

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that night, and, in so doing, they would remove the unfavourable impression which the easy surrender of their own parliament had made on the public mind. He felt more than common anxiety on the subject. It was generally supposed that the accession of one hundred Irish members to that House, was giving an accession of so much strength to the minister, who could always command their votes. He was grieved to think this idea had gone abroad. And, as an Irish member, he should be ashamed to walk the streets if he did not think that his countrymen in that House were as free from corrupt influence as any of those gentlemen who represented England.

The *Master of the Rolls* disapproved of the manner in which the business was taken up by gentlemen on the other side; it tended to make the House enter upon a judicial proceeding They were eager to bring the accused persons to punishment, but he was at a loss to see how they were to be punished before the exact nature and extent of their offence was ascertained.

Mr. *Fox* began by stating, that he should be extremely unwilling to suffer this question to be put, without expressing his sentiments upon it. For if unhappily the vote of the House should be opposite to that which he hoped and wished, he should feel very uneasy indeed, that his name should partake in the universal odium that must attach to any decision tending to second such notorious delinquency as the report on the table declared. Before he would proceed to the merits of the charges under consideration, he thought it proper to notice the arguments of the gentlemen upon the other side; not because he considered these arguments possessed of any intrinsic force; but lest, from the authority of the persons from whom they proceeded, they might have the effect of leading the House to a decision, which, if it should correspond with the wishes of those by whom such arguments were used, must destroy its character with the country and with all Europe. The first gentleman with whom he would begin was the last who spoke. That learned gentleman directed the whole of his observations to show that the House should go into a committee, in order to ascertain whether the breach of the act of parliament, not of which Lord Melville stood charged, but of which he confessed himself guilty, proceeded from corrupt motives. If corruption consisted merely in a man putting money into his own pocket, according to the vulgar conception, perhaps some of the deductions of the learned gentleman would be right. But he would contend that nothing could be more corrupt, in his opinion, than to permit a man's own agent to convert the money of others to his own private emolument. This was the

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amount of Lord Melville's confession; and although it might be possible, from a further examination, to prove the noble lord more guilty, it did appear to him utterly impossible to prove him less so. For the most conclusive evidence of the noble lord's corruption, he would only refer to that paragraph in the 149th page of the Report, in which the noble lord stated, that "although he knew his agent Trotter was applying the public money to other purposes, than that from which it was legally intended, that he did not prohibit him from doing so."---What was that, he would ask, but complete corruption, even taking the case *simpliciter?* but combining it with other circumstances, could any man entertain a doubt upon the subject of his guilt? What greater aggravation of his delinquency in tolerating the breach of his own act of parliament could be imagined, than allowing his agent to misapply the public money, for the safe custody of which that act was intended? But it is pretended that no loss had accrued to the public from this malversation; and a very singular argument was advanced, that as there was no loss there was no risk. Now (said Mr. Fox) it happened in certain parts of my life, which I do not quote with a view to recommend my example to others, that I was in the habits of engaging in speculations, which are commonly called gaming. If a man should, in that kind of speculation, win a large sum of money, I am sure that an argument would not thence arise that he had made no risk. I rather think the natural inference would be, that his risk was considerable. Probably, however, in this case, Lord Melville did not care that Mr. Trotter should not lose any money. Mr. Trotter was the confidential agent of Lord Melville, and Lord Melville was the confidential agent of the state. Therefore, in this sort of speculations in which Trotter engaged, Lord Melville could guard against much risk. If two men play cards together, and a third person stands behind one of them and throws hints to the other, he that receives the hints is tolerably sure of winning. Just so in this business; Lord Melville knew when the navy bills were likely to be funded, and Mr. Trotter could act upon the information he might receive. Will any one say then, that from such acting upon such information, no loss would accrue to the public? On the contrary, I maintain, that the public would suffer a loss of 1 per cent. upon the discount of such bills. But then, observed the honourable member, the learned gentleman desired the House to go into an inquiry, in order to obtain farther evidence.---He would appeal to the judgment of the House, Whether any farther evidence could be necessary to enable it to come to a decided opinion upon the breach of law, which the noble lord himself confessed?---

That opinion the House was called on to declare. The public had a right to demand it from them. It was said, that the House ought not to think of acting judicially, of inflicting punishment without the fullest examination into the merits of the accusation, and affording the accused the fullest opportunity of vindicating himself. And so far as the confession of Lord Melville went, he had been already tried. He would, however, defy those gentlemen who rested their objection so very much upon the question of punishment, to show that it was at all times in the power of that House to inflict any punishment on such delinquents as Lord Melville and Trotter. But if the House should determine on prosecution in any way with a view to punishment; whether by directing the attorney-general to prosecute, whether by moving an impeachment, or preparing a bill of pains and penalties, which perhaps would be a more proper mode of proceeding, he would maintain that the confession of the party accused would be evidence to proceed upon, and that the House was now called on to act, as it must in every similar case, as a grand jury, to pronounce upon the guilt of the accused. It was strange to hear it asserted that the accused was not guilty, because no loss accrued from this scandalous transaction. To those to whom the loss of honour was nothing, perhaps it might be said that no loss had arisen. But what was the loss of honour to that government which, after such a palpable instance of delinquency, should preserve its connexion with the delinquent? and what is the loss of character and honour to that house, should it attempt by its vote to screen such a delinquent? infinitely more than any sum of money could possibly amount to. Whatever the learned gentleman, to whom he had already adverted might assert, he could not see that any farther inquiry could be necessary to enable the house to decide that a great public officer, who allowed his servants to make illicit profit from the public money, in the teeth of an act of parliament, was guilty of a most serious offence. The guilt consisted in the violation of the law, and it never could be pretended that any such violation could be innocent. There were, indeed, many cases in which the most severe punishments attached to offences to which the charge of moral turpitude did not apply, but which were criminal in consequence of the precept of the law. Such were many of the offences against our revenue laws. Not two years ago an act was passed declaring a man guilty of felony, without benefit of clergy, if paper of a certain sort should be found in his possession, this sort of paper being used for the manufacture of bank-notes. Now the reason of this statute was this, that a man could not be presumed to have such paper

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in his possession but with a criminal intention. Therefore the breach of the act was proof against him. And the act of the 25th of the king, which applied to the case under consideration, was drawn up upon a similar principle, and the breach of it was to be deemed the proof of the criminal intention. Upon this proof, which arose out of the reason of the law, he had no hesitation in pronouncing the noble lord guilty. The noble lord, it would be recollected, retained the office of treasurer for nine years after he was appointed to that of secretary of state. [This was denied by the chancellor of the exchequer across the table.] No matter, resumed Mr. Fox, as to the precise time. The noble lord retained the office for several years; and when in that house allusion was made to the circumstance of his holding the two offices, the answer from the other side of the house was, that although he held those offices, he only received the salary of secretary of state, and nothing from that of treasurer of the navy. Ay, that is nothing of the legal salary. Did not this justify something more than suspicion? Why should the noble lord so fondly cling to this office of his friend, Mr. Trotter? There were many other persons among even his own relations who would have been glad to occupy this situation. But no, Lord Melville seemed particularly attached to it; and would common sense, in considering a thing of this kind, make no inference from that attachment. Another objection arose against the proposed committee, from this consideration, that he did not see that any of the difficulties which some gentlemen complained of, could be removed—that any of the obscure accounts could be explained. Those accounts were indeed of such a nature, that the parties themselves could not understand them, and how then could it be possible for a committee of that house to make any thing of them.

It had been said that the house should proceed with the utmost deliberation in deciding upon character. But upon whose character were they to decide on this occasion? Not certainly upon that of Lord Melville, for his character was entirely gone, but upon the character of the house and the government, which must depend upon the vote of this night. As to the character of Lord Melville, it was so completely destroyed in public estimation for ever, that he would venture to say, that were the vote of the house unanimous in his favour, it would not have the slightest effect in wiping away the stigma that was universally affixed to his name. What then must the world think of retaining such a man at the head of the glory of the country? It was dreadful to reflect that the most honourable claims (honourable professions) should be placed at the disposal of a man with whose name

dishonour was inseparably associated—who had confessed himself guilty of an act of corrupt illegality. The honourable gentleman took notice of an ingenious and forcible argument advanced by a noble friend behind him (Lord Henry Petty), whose speech he considered, and he was sure the house felt it to be the best that had been delivered in the course of the debate. He recollected, that when the right honourable gentleman on the other side (Mr. Pitt) made his *entrée* in that house, his first essay was in favour of reform and against corruption. With what pleasure did the house listen to him upon that occasion!—but how soon was the promise of his early years abandoned!—

"Quantum mutatus ab illo."

Let the speech which the right honourable gentleman delivered on that occasion be contrasted with that of this evening, and the change would be glaring? There was something also in the dying legacy of Trotter to the navy office, that was particularly deserving of a remark. It amounted to this, that Trotter said to his successors, "Now, as I am leaving the pay-master's office, I shall provide that not one of you shall ever make a shilling by the same means that I have done." But this he left as a bequest after the death of his own power. He did not even offer it while living. An honourable gentleman had expressed a hope that some measure would be adopted to prevent the recurrence of such a practice as the report on the table disclosed. But no measure in the shape of an act of parliament could be efficient, if this precedent were to be established, that an act of parliament was to be violated with impunity. For his part, when he read over the evidence, he was rather filled with disgust than indignation. He was ashamed of having any connexion, even hostilely, with a person who had so degraded himself. Indeed it made him ashamed of being of the same class. What does the evidence exhibit? A man of such power and elevated situation as the noble lord shrinking from answering the questions put to him, on the ground that he was not to criminate himself; and again saying, when the question was repeated, that he did not recollect how far he might have benefited by Mr. Trotter's money transactions.—Recollect! Does a man apply to his recollection on such occasions and respecting such circumstances! A man, when asked whether he was ever in company with John Noakes, for example, may very well say, 'To the best of my recollection I never have.' But, were it inquired whether he had not been kicked out of company by the same person, for attempting to pick his pocket, what would be thought of him if his answer was, 'To the best of my recollec-

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tion I was not? Besides, the noble lord never thought of attempting any explanation of his evidence till the report had been nearly two months before the house. He knew nothing of it till it was printed.—What! the report was so long before the house, of which the noble lord is a member, and, though it so nearly concerned himself, he never had the curiosity to look into it until it was printed. Who can believe it? Or did the noble lord only begin to be alarmed when he found the effect which the printed report had made on the public? Then he writes a letter, which he had much better have left unwritten. It was a vain attempt to do away the damnation. He still remains involved by Mr. Trotter's evidence. Was it not wrong in Mr. Trotter thus to commit his principal? Yet no anger is betrayed against him —no indignation manifested by the noble lord at the slur thus cast upon his character. But how could he blame Mr. Trotter? He must have known the whole transaction. The honourable gentleman after again adverting to the situation to which the right honourable gentleman (Mr. Pitt) was reduced by his noble friend, could not help asking how it came to pass that, although notice had been given a fortnight ago of the motion brought forward this night by his honourable friend, yet the right honourable gentleman never then alluded once to the letter he was afterwards to produce; nor, when he produced it, did he make any mention of the necessity of a further inquiry. How did this happen? If he was to believe the reports of the day, the idea was suggested to him from a quarter which he did not chuse to disoblige; though that quarter was not generally supposed to be in possession of power. From whatever intimation the measure arose, no good could be expected from a committee of inquiry. When it was known and seen how low was sunk the man, who holds so splendid a situation in the state, what would be thought of the government? in what light could it be beheld, either abroad or at home? The bravest generals, the most gallant admirals, the ablest statesmen, have abstained from the discharge of office while under an accusation, though conscious of their innocence, and certain to come forth more spotless than before. Could the noble lord continue the administration of his high department while his character was thus exposed? The house, no doubt, would feel the necessity of speedily deciding on that point, and of showing, that to innocence they would afford protection, in defiance of influence or power. With respect to the noble lord's offer to swear positively that he did not profit from the misappropriation of the public money, it was remarkable, that this offer was confined to the

period in which Mr. Andrew Douglas, who was now dead, was paymaster of the navy, but did not at all extend to the paymastership of Mr. Trotter. What was the conclusion then to be drawn from this? Why, that he was ready to make oath as to the paymastership of Douglas, because he was dead; but did not think proper to swear as to Trotter, because he was alive. The honourable gentleman made an appeal to the pride and feelings of the house, and particularly to that of Mr. Pitt, advising him not to risk the little of reputation that remained to him upon this occasion—not to stake this card for his last. He concluded with expressing a hope, that the facts exposed in the Tenth and Eleventh Reports would provoke an inquiry into, and a reform of, the several departments of the public expenditure. He trusted that there were men around him who would promote an investigation so desirable for the cause of justice and the interests of the country.

Mr. *Wilberforce* expressed himself in decisive terms in favour of the motion. Though it was not fully evident to the house that Lord Melville had any direct gain from the transactions which were alluded to, yet he could not say that his lordship had not received accommodation from them. It was, however, very clearly in evidence, that Mr. Trotter had acted on a very large and extensive scale. If the house was once to suffer a minister to say, that he had connived at a breach of a law, by his deputy, a confidential deputy, a confidential servant, constantly for a number of years, and that the superior was to be allowed to pass uncensured, because no personal corruption had been proved against himself; if that was once to be admitted as a principle by which the conduct of the House of Commons was to be directed, there was no security remaining for the faithful discharge of any public trust.—Such was the opinion which he entertained of the consequences of the loss of confidence and honour, that it was beyond the value of any thing else which could be set in balance against it. Much as the people of England disliked the conduct of Charles I. in levying ship money without the consent of parliament, they thought it ten times worse that the judges gave their opinion in favour of the measure. When the body that they looked to for protection had declared against them, they saw no resource to which they could then lawfully turn, and the consequences were too well known for him to think it necessary to repeat them. The house was now applied to as the constitutional guardians of the people's rights, and he should discharge his duty to the people to the best of his judgment as an upright

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member of that house, and as a conscientious man, in giving his vote this night. He thought that the case was broad, plain, and palpable before them, and gave the motion his most sincere support.

Sir *C. Price* observed, that as a magistrate and a man, he felt himself most fully justified in declaring, that if Lord Melville had been entirely free from any criminality, he would have answered more fully and unequivocally than he had done. He therefore supported the original motion.

Lord *Archibald Hamilton* rose, he said, at that late hour, only to remark, that no one Scots member had spoken against the nefarious proceedings of the two Scotsmen, whose conduct had been the subject of debate. He rose, therefore, to declare, that he should vote for the original motion.

Ayes 216—Noes 216.

The numbers being thus even, the honourable speaker gave the casting vote.—AYE, ONE: which made 217 for the original motion.

The other motions were then put *seriatim*, and carried in the affirmative, without interruption, till they came to the 11th, containing the censure on Lord Melville.

Mr. *Pitt* here moved an amendment to leave out the last words, "gross violation of the law, and a high breach of duty;" and to insert the words, "contrary to the intention of the law."

On this a debate took place.

Mr. *Grey* said, that it would be a scandalous dereliction of their own duty, to say, that the connivance of Lord Melville in the conduct of Mr. Trotter was not a gross violation of law, and a high breach of duty.

Mr. *Pitt* said, he would withdraw that amendment, and only move to insert after the words "for purposes of private interest or emolument," the words "to Mr. Trotter," because, he said, there was no proof or confession that he connived at the drawing out of the money for his own interest or emolument. Nay, he had in his letter denied it.

Sir *William Pulteney* said, he thought this would be reasonable, provided the words "as acknowledged by Lord Melville," were inserted.

Mr. *Whitbread* said, he had no particular objection to this amendment. The words in his motion had been left general, because it was confessed that the sums were drawn out for private interest and emolument, but not specified directly whether for Lord Melville as well as Mr. Trotter.

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In this way the motion was read from the chair. It then stood thus:—

" That the Right Hon. Lord Viscount Melville having been privy to and connived at the withdrawing from the Bank of England (as acknowledged by Lord Melville) for purposes of private interest or emolument, by Mr. Trotter, sums issued," &c.

Mr. *Windham* contended, that after the clear elucidation of the case, the treasurer of the navy could answer whether or not he had derived advantage from the public money; and till then the words in the resolutions ought to be left ambiguous.

Mr. *Fox* said, that the attempt to screen Lord Melville from the result of the previous resolutions by so trifling an amendment, would do the noble lord no good, but would put that house in a very awkward point of view.

Mr. *Wilberforce* said, that not to brand the transaction by the epithets of gross violation of the law, and a high breach of duty, after the confession of Lord Melville, would be ignominious to the house.

Mr. *Sheridan* said, that the amendment made the motion almost nonsense. To say, in the first instance, that Lord Melville connived for sixteen years, and then to fritter away the conclusion, was a most extraordinary way of acquitting his colleague.

Mr. *Bastard* said, it was impossible for any gentleman to support such an amendment.

Mr. *T. Grenville* spoke to the same effect.

Mr. *Pitt* persisting in his declaration that he would take the sense of the house, the gallery was cleared; but on the question being put on the motion as it originally stood, the speaker declared that the Ayes had it, and Mr. Pitt did not divide.

The two other motions were then put and carried.

Mr. *Whitbread* said, he had of course a motion necessarily to make in consequence of the resolutions of the house that day, but it was then too late.

Mr *Pitt* moved, that the house should adjourn to Wednesday, the 10th.

Mr. *Fox* submitted to the good sense of the house, whether in so critical a moment they should adjourn over a single day. They would recollect, that the country was now in the hands of a disgraced ministry.

Mr. *Pitt* pleaded for an adjournment, and hinted, that it might be necessary in the present circumstances.

The House accordingly adjourned to Wednesday, the 10th, when

The *Chancellor of the Exchequer*, the moment he entered the house, rose to state, that in consequence of the decision of the House on a former evening, Lord Melville had tendered his resignation of the office of First Lord of the Admiralty, which resignation his Majesty had been graciously pleased to accept.

Mr. *Whitbread* moved, that the resolution which the House had come to respecting Lord Melville, on Monday night, be read, which being read,

The honorable member rose, and spoke to the following effect:—I rise, Sir, in pursuance of the notice I gave on a former evening, to submit a proposition which is the natural consequence of the resolutions that have just been read. This proposition is of such a nature as I cannot be induced to abandon by the notification that the right honorable gentleman has made to the house; for the event to which that notification refers, by no means answers the object of my motion. I feel that much more is due to the vote of this House, and to the feelings of the public. The demand of public justice is not yet satisfied. If the issue of the debate of Monday evening were merely of a personal or party nature, if our object was only to injure the feelings of Lord Melville, we might be satisfied with his removal from the responsibility, dignity, or emolument, attached to the high office that has been mentioned. As far as the principle of individual humiliation can extend, the triumph is complete indeed. But I trust it cannot be imagined that any gentlemen who act with me on this important occasion, are actuated by any private or party feelings. No; the cause in which we are engaged is of the highest nature. It is the cause of public justice. It is that which we shall not abandon, but still continue to urge from the fairest motives, until complete satisfaction shall be obtained. I am fully assured of the pure and exalted views of those by whom I have the honor to be supported; and for myself I can say, that if I know my own heart and feelings, I am completely free from the slightest influence of a vindictive spirit.—Impelled by a sense of duty to my country to bring forward this accusation, my opinion of the grounds upon which it rested has been justified by your concurrence. I have appealed to you, and you have given me your verdict——*that Lord Melville has been guilty of grossly improper conduct, and that he, of course, deserves punishment.* Thus stigmatized by the vote of this House, and aware that he must, in consequence, be dismissed, Lord Melville has done nothing more than that which would naturally suggest itself to any man's

man's feelings—he has tendered his resignation. But although that resignation has been accepted—although Lord Melville has been removed from a high office, what security have we, what security has the country, that he may not be restored to-morrow to the same office, or placed in some other high and confidential situation? Is it fit that any ground for even the apprehension of such a circumstance should exist? Is it fit that a possibility of its occurring should not be guarded against? It is necessary to the dignity of the country—to the satisfaction of the people—to the consistency of this house, that the return of Lord Melville to power should be rendered impossible. In reflecting upon the event of a former night's debate, I cannot but feel that it was a proud day for this country, and I am persuaded that such is the general feeling. Can any one who looks abroad for a moment doubt the approving testimony which the people so gladly bear? The assembly of members was, on that occasion numerous. The point came to the balance, and it rested with the chair, that seat of impartiality, to determine upon what side it should turn.—It remained for you, Sir, without wounding any party spirit, to decide which party was right, and your decision was founded in justice. That decision, Sir, was consistent with the dignity of your station and character, and has secured you the gratitude of your country, No where has it produced dissatisfation, but in the breast of the criminal. All that are honest, independent, and just, rejoice and thank us. Such, indeed, is the exultation of the people abroad, such is the pleasure that is visible in the looks of the people, that one might say that our history may be read in the nation's eyes. After having done so much, after having obtained so much gratitude from our country, shall we not take another step to complete our work? Shall we not render it impossible that Lord Melville shall ever again pollute the councils or presence of his majesty? At the same time that I express my feelings thus warmly, with respect to the delinquent who is the object of my motion, let it be understood, that it is my particular wish to speak with the utmost deference to this assembly, which has conducted itself with so much honor. Let me assure you, that if I did not think the motion which I am about to submit essentially necessary, with respect to the individual whom you have so much stigmatized by your vote, I should not press it upon your attention. From all that I have collected among my own friends, who belong to the party with whom I have the honor to act, (and to act with such a party I shall certainly always feel my pride and honor) as well as what I can understand from the gentlemen who generally oppose, but who happened on this occasion to concur

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with that party; it appears to be the generally prevailing sentiment, that farther and more effectual proceedings should be taken against Lord Melville. Other proceedings will undoubtedly be had; but upon this occasion it is my intention to submit a motion, the object of which will be to deprive that noble lord of every civil office he holds, during the pleasure of the crown, and to dismiss him from his majesty's councils and presence for ever. I ask of the right honorable gentleman opposite (Mr. Pitt), whether he is prepared to make a pledge to that effect? I also ask, whether the vote of this house has been treated with due deference in another quarter? whether Mr. Trotter has been dismissed? (Mr. Canning answered *Yes.)* Has Wilson also been dismissed? (Mr. Canning answered, *No.)* Then I say that all this was necessary, in respect to the decision of this house. There may, however, be particular reasons why Wilson should not be dismissed for a few days. Some arrangements may be previously necessary. But is it not the intention to dismiss him? (Mr. Whitbread paused for an answer; but none was gven, and he resumed.) Whether or not it be the intention of the right honorable gentleman to dismiss Wilson, sure I am that he ought to be dismissed, and that from his conduct before the commissioners, he is unfit to hold any public office. He was evidently the accomplice of Lord Melville and Trotter; and as those delinquents have been dismissed, Wilson ought certainly to meet the same fate. With respect to the course of proceeding I mean hereafter to follow against Lord Melville and Trotter, I shall avail myself of this opportunity to give notice, that it is my intention, immediately after the holidays, to move, that the Attorney General shall be directed to take measures to compel those delinquents to give an account of the monies they have had, and to refund the profits obtained through the misappropriation of the public money. As to the way in which this should be done, that must be left to the judgment of the right honorable gentleman himself. There are other proceedings also which it will be necessary to take. There are many dark and mysterious points connected with the Tenth Report, and other subjects which must be brought to light. It is my purpose to move an enquiry into those several topics. It is stated in the Tenth Report that sums of money had been transferred from the treasury of the navy to other services. In the illegality of such conduct the right honorable gentleman over against me (Mr. Pitt) has confessed that he was a party to a certain extent. The purpose for which tranfers were made might be meritorious; but still it must be recollected, that the transfer was a violation of the law. This violation is admit-

ted; and whether the purpose to which the money was applied, was or was not meritorious, yet remains to be seen. To enquire into this, and various other transactions, I shall, after the holidays, move for the appointment of a select committee. Give me leave here to observe, that nothing can be of more importance than that the public money should not be disposed of by any other authority than the vote of parliament; and here is a direct, avowed assumption of that authority. Whatever the pretence, or however meritorious the object, I feel that this withdrawing of money from one service to supply the purposes of another at the mere will of a minister, calls for the most serious examination. It is rather remarkable, that this practice of misappropriating the money belonging to the treasury of the navy, appears to have taken place only while Lord Melville was in office. No transfer, or even negociation for such a transfer, seems to have occurred during the time of any of those who preceded or succeed the noble lord in that office. The reason of this singular difference, and whether any, and what justification can be produced for that part of the noble lord's conduct, may be ascertained by the committee, as I must suppose that papers are in existence to account for such transactions—that some records of the cause of such things are preserved—that all the documents respecting these particulars also are not burned. Several other parts of the Tenth Report, upon which I shall not now dwell, and many subjects besides which are not included in that Report, but which call for examination, may be referred to the consideration of the committee. I touched slightly the other night on the conduct of the Bank of England in the course of this transaction. It appears that the cashier had not sufficient vouchers, according to the act, for the money advanced to Mr. Trotter. I am however, given to understand, that there was a slip or mistake in the evidence of the cashier before the commissioners, but that the conduct of the Bank was correct. If this be the case, the imputation should not be suffered to remain; a farther examination should be instituted, and may arise before the committee. Before that committee also the right honorable gentleman opposite (Mr. Pitt) may have his conduct inquired into. That right honorable gentleman, according to what I have heard in the course of conversation, and indeed it is the general rumour, was for years apprised of the irregular manner in which the public money was drawn from the Bank by Trotter, and that he never attempted to put a stop to that practice. This is a serious charge against the right honorable gentleman, and may be referred to the consideration of the committee, before whom he will

will have an opportunity for explanation. Unless the right honorable gentleman shall exculpate himself from the guilt of such connivance, serious proceedings must be taken against him also. What! that the finance minister of the country should be acquainted with such proceedings, as I have every reason to believe that he was, and not take measures to prevent their continuance? Is not this matter deserving of inquiry? and, if the rumour be well founded, of serious animadversion? The case of Jellicoe also I would propose to refer to the committee. That certainly forms a serious charge, not merely against Lord Melville, but against other persons. If I am rightly informed, the commissioners of the treasury were implicated in the guilt of this case, and are responsible for the loss arising from the debt which Jellicoe's property owed to the public. We have been speaking so much in the course of this discussion of millions, that perhaps the 24,000l. due from the property of Jellicoe may not appear of much consequence. Indeed, such talk about millions has had the effect of making even the right honorable gentleman on the other side (Mr. Pitt) forget his arithmetic, and confound 134 millions with 186 millions. But the case of Jellicoe appears to me, notwithstanding the comparatively smaller amount of the sum, to be peculiarly entitled to attention. It affords an opportunity of estimating the conduct of the commissioners of the treasury, who will be found, I am justified in believing, to have granted Lord Melville a release from this debt most improperly, and to have acted on very false grounds. This may be brought to light before the committee. Perhaps, also, evidence may be found by this committee, to ascertain that important question, whether Lord Melville had any participation, and to what amount, of the profits resulting from the use which Trotter made of the public money? This is a most material point to establish; and if it be possible to get at the facts of this part of the subject, I have no doubt that the committee will be able to accomplish it. The principal cause of the suspicion impressed upon my mind that Lord Melville did participate with Trotter in his illicit gains, arises, as I before mentioned, from the fond attachment with which the noble lord so long, and under the various changes of circumstances, clung to the office of treasurer of the navy; and it is remarkable, that not one of his friends has attempted to account for this attachment, or to remove the impression it is naturally calculated to produce. This omission must serve to strengthen the impression in the mind of any man, that the motive of such attachment was suspicious. Adam Smith observes, that two and two in the customs don't always make four. Lord Melville,

although so frequently heard in the house to complain of the great fatigue he had to encounter in the discharge of his official duty, and the quantity of business he had to perform; yet thought proper to add to the Presidentship of the Board of Controul, and Treasurership of the Navy, &c. that of Minister of War. I am not now about to argue that the office of treasurer of the navy is unnecessary, although it appears that Lord Melville had no business to perform. Then he found it necessary to accept the place of Secretary of State; the salary of which he declined, retaining the salary of the Treasurer of the Navy, although the one was as good as the other; the salary of each being 4000l. a year. It is curious to think what could have been the reason of this preference. These are the circumstances which have urged me to suspect Lord Melville of a participation in the fraudulent profits of Trotter. But whether he has been guilty of this participation or not, he stands convicted of the most odious thing imputed to him: that of sanctioning the misapplication of the public money. This is the principal article of charge against him, and this charge he has acknowledged. After this acknowledgment from his own mouth, and the vote of this house upon it, it would be inconsistent with the dignity of the country to allow such a man as Lord Melville to remain in any office under the crown, from which he can be removed. The removal of Lord Melville from an office of such high rank and honor as the Presidency of the Admiralty, is no doubt a great humiliation; but yet it is not sufficient to satisfy the ends of public justice, one hair's breadth beyond which I do not wish to proceed. When these ends are attained, the duty I have undertaken will be discharged. But, until then, I should not wish it to go forth, that this House should even manifest a disposition to stop short. If punishment only were our object, it might perhaps be said, that Lord Melville has had enough of that in his degradation, and what his feelings must in consequence suffer. But it will be recollected, that punishment is not our only object. Example is the great end we should have in view, and that end we shall not have reached until the criminal shall have suffered all the consequences that should justly attach to his crime. If Lord Melville should escape those consequences, we shall not have done our duty. Independent of the offices and emoluments held by Lord Melville, I understand that since his last accession to administration, even within the last year, he has had 1500l. a year conferred on him for life, in addition to the revenue of a patent office he holds in Scotland. This noble lord had, it seems, retired from public affairs, as it was said, for life. But the

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circumstances, not of the country, but of the peculiar wish and necessity of the right honorable gentleman on the other side (Mr. Pitt), drew the noble lord from his retirement, and he became a member of the administration formed by the right honorable gentleman. The noble lord was appointed to an office, the first in rank, power, and patronage, in the country, with the exception of that only which is held by the right honorable gentleman (Mr. Pitt). But yet that was not sufficient to content Lord Melville. No, he must be induced to accept it by the grant I have already alluded to, of 1500l. a year for life. Previous to this addition, a grant was made to Lady Melville out of the public money. The merits of Lady Melville are quite out of the question. All this liberality must be considered as a compliment to the services and character of Lord Melville. But there is something very mysterious about this grant. It was made in a very clandestine manner. In point of fact, under such circumstances, there is good reason to believe that those who fixed their names to the grant were not aware of the nature of it. It was indeed one of those grants that, I fancy, it never was expected that any investigation would take place respecting, or perhaps that it would ever be noticed. I have reason to entertain strong doubts that the grant of 1500l. a year, as an addition to Lord Melville's salary as Lord Privy Seal of Scotland, is not valid. If revocable, it certainly ought to be revoked under the motion I mean to submit. This motion, which, under all the circumstances of the case, I have thought it my duty to bring forward, will, I trust, meet the approbation of the House. Gentlemen who honored me with their support to the resolutions on the table, cannot consistently refuse to concur in this proposition, which is the natural result of those resolutions. Even many of the gentlemen who differed with me on a former evening, from a wish for a further enquiry, will, I hope, seeing that such decisive resolutions have been adopted, support the consistency of the House, by voting with me on this occasion, should the gentlemen on the other side press this question to a division. The honorable member, after repeating the opinion, that he had good grounds for believing that a decisive majority concurred with him as to the necessity of this measure, concluded with moving, "That an humble address should be presented to his Majesty, praying that he would be graciously pleased to dismiss Lord Melville from all offices held by him during pleasure, and also from his councils and presence for ever."

Mr. *Canning* rose to oppose the arguments of Mr. Whitbread. However desirous the honorable gentleman might have been of disclaiming

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any other motives for the course he pursued, than what proceeded from a wish to establish an example, he could not help thinking, and he was sure many more were of the same opinion, from the topics which the honorable gentleman had introduced, and the time he had adopted, that he had been actuated by something more than by the motives he had alledged. The honorable gentleman had given a specimen of the spirit by which he was actuated when he set out, with asserting that what Lord Melville had done in obedience to the resolutions and wish of the house, which he himself was by no means disposed to find fault with, now that it had become the act of the House, was imputable to him as an aggravation of his guilt. What would have been the feelings and the animadversions of the honorable gentleman, what his expressions of indignation and resentment, if the house had met this day, Lord Melville, instead of bowing to its decisions, still continuing to hold the office of First Lord of the Admiralty? Would he not have made that the ground of further and increased invective? He was sure the honorable gentleman opposite (Mr. George Ponsonby), who had urged his suffering Mr. Trotter to continue in office, as an accusation of his conduct, would, in the present instance, if he possessed any of the character or spirit of a British lawyer, confess that his accusation was unfair, unfounded, tyrannical, and despotic. With regard to Mr. Wilson, he still continued in the same office which he before held. The honorable gentleman had asked, whether he too had been dismissed? The right honorable member, as far as he could discover, had no reason to think that Mr. Wilson had been in any way implicated. Mr. Wilson had been one of those who had been reported by the commissioners as having given reluctant testimony. He was convinced that a more conscientious officer did not exist. If the decision of the House should be declared against continuing Mr. Wilson in office, he should deem it his duty to obey. The honorable gentleman had, in adverting to the resolutions adopted by the House on a former night, dwelt with exultation on the virtue that had been displayed. The honorable gentleman might have adverted to many instances of equal virtue, not only in the best periods of the most distinguished times of our history, but he might also have found a similar instance of patriotic conduct in 1795, when two noble lords (Lords Grey and St. Vincent) were on their trial before the House under similar circumstances. These noble lords had been then defended by their political enemies; and the noble lord, the object of the motion of this night, had fought in that House many obstinate battles in their defence. This noble lord, who had acted so generously

rously on that occasion, so far from experiencing equal generosity, was now persecuted and hunted down; and by whom? by the friends of Lord Grey and Earl St. Vincent. He congratulated the gentlemen on their sense, true spirit, and virtue, and prayed God Almighty to forbid that he should ever imitate their example.

Mr. *Grey* and Mr. *G. Ponsonby* rose at the same time.—Mr. Ponsonby having with some difficulty given way,

Mr. *Grey* said it was impossible for him on the sort of appeal made by the honourable gentleman who spoke last, an appeal which could have no advantageous effect whatsoever for persons whose characters were under consideration, not to offer himself for a few moments to the House. The honourable gentleman congratulated him, and those about him, on what he was pleased to term more than Spartan virtue, of being insensible to the support which those who were most dear to them had formerly received from the person now under accusation; and the honourable gentleman at the same time represented that this person had, on that occasion, fought the most difficult battle ever remembered in that House. He begged the honourable gentleman and the House to recollect the circumstances of that transaction, and on the strength of that recollection he disclaimed and denied the difficulty so broadly stated. The noble persons alluded to had, in that instance, received support from those who had recommended them to the crown, and among the few solid glories of the last war, he hoped to be allowed to rank the services they had performed. He hoped to be allowed also to claim credit for their conduct in not flying from inquiry, in not seeking shelter in delay and subterfuge, but boldly and candidly appealing to the justice of the House, and desiring the strictest investigation.—Under these circumstances, he disclaimed the idea that any benefit had been conferred on them. The defence afforded on that occasion, was no more than was due in justice to the country, and what those who had recommended the officers whose conduct was under discussion owed to themselves. This was the sentiment of the honourable gentleman who moved the amendment at the time, being of opinion, that the original resolutions did not express fairly the sense that ought to be entertained of the conduct of these noblemen. These noble persons had been recommended to the crown to conduct an arduous enterprize, and they had succeeded; they afterwards encountered difficulties; and the House was of opinion, on full consideration of the case, that no blame was to be imputed to them. No benefit was therefore conferred; and if any person conceived it was a favour, that person must have a different view of the case from what he had. With respect

pect to the merit assumed for recommending without partiality persons of all parties for the public service of the army and navy, he begged the House to recollect, that if, instead of employing those meritorious officers who were best qualified to serve the country, private pique and narrow considerations were to prevail, to the exclusion of those meritorious officers, and to the employment of others less capable of promoting the national glory, the person who would act on such a system would be guilty of a gross dereliction of public duty. The persons best qualified to attain the objects the country looked for, were in these instances above all others to be called upon by those at the head of affairs, without any consideration of political animosity. As to the difficulty of the battle fought in the House for the noble persons whose conduct was then under discussion; the honourable gentleman was then a member of the House, though he did not take a part in the debate, he might therefore have recollected that the minority, on that occasion, amounted only to sixteen, the odd sixteen of the other night.—Where then was the difficulty that the honourable gentleman had represented, and the extraordinary merit and exertion of the person whose conduct was now under consideration, to obtain the decision then made. It was not agreeable to him to enter into these particulars, but he could not sit silent under the unprovoked and ill-judged allusion of the honourable gentleman—ill-judged, for the character and the cause which the honourable gentleman was supporting. For himself, however warmly he felt at times, no one was generally less liable to excess of warmth—it was not in his nature; the honourable gentleman did not know him; but those who did know him, knew that he was incapable of holding permanent resentment against any man; it was impossible he could have any against the noble lord whose conduct was now the subject of debate. He would bear testimony for his honourable friend who had made the motion, that he was as little likely to be actuated by such feelings, and the House would go with him in the understanding, that the only motive was a sense of duty, which they had sanctioned.—He was of opinion, that if any blame lay, it was for not being sufficiently severe. The honourable gentleman said, this attack was pursued with bitterness. That it was maintained with strength he was ready to allow; but that there was no rancour in pressing the House to a declaration of its just sense on delinquency so clearly established, was what he maintained, and he was sure the House would go with him. If it were the general sentiment of the House that the present motion should not be now pressed, he should not be for pressing it; but till some better reason could be offered on

the other side than those urged by the honourable gentleman, he thought the House having come to the resolution that the noble lord was guilty of a gross violation of the law, and culpable neglect of his duty, the House would not sustain its character if such a resolution was suffered to remain on the journals without being followed up.—Nothing like argument had been blended with the appeal made to the passions of the House, from the other side. His honourable friend had been misrepresented when he was stated to have said, that what the honourable gentleman had called an act of humiliation and deference to the sense of the House, was an aggravation of his guilt. What his Majesty's minister, the friend of the noble lord, had stated, that the noble lord had tendered his resignation, and that it had been accepted, would, in other circumstances, be sufficient. As to the question put by the honourable gentleman, of an adjournment for the day in the express expectation that his Majesty's ministers would do their duty by dismissing Lord Melville, not with the intention that it should be left a matter of choice to Lord Melville, as it was the sense of the House that the noble lord should be removed from his Majesty's councils for ever.—With a resolution of this kind on the journals of that House, he conceived it impossible Lord Melville could hold any situation of trust or confidence.—(Conceiving some surprise to be expressed by Mr. Pitt at this idea.) If the right honourable gentleman meant to intimate that there was any danger of such an event, it was particularly fit to guard against it: but he still continued to say, that after such a resolution, there was no danger of the noble lord's being appointed to any office of trust. Still, however, the noble lord was a member of his Majesty's privy council, and he ought to be so no longer. In Scotland the offices which the noble lord held were chiefly for life; but he held others during pleasure, and he ought to be removed from them, if the justice of the House, or of the country, was to be satisfied. If Lord Melville had had an increase of his salary as Keeper of the Privy Seal of Scotland, on his coming into the office of First Lord of the Admiralty, he hoped, if it was intended on his retiring from the Admiralty, that he should retain that and all his other honours and emoluments, the good sense of the House would put a negative on that intention. Till, therefore, some better arguments were adduced than the appeal to the feelings and delicacy of the House, he should persevere in supporting the motion. He adverted to the charge so unwarrantably made on his honourable and learned friend behind him (Mr. Ponsonby), who was accused of conduct inconsistent with British law and British justice, of tyrannical and despotic prin-

ciples in pressing the punishment of this delinquency. He had been called up by the personal allusion that had been made by the honourable gentleman; but being up, he thought it right to state thus far his reasons for supporting the motion; and he saw nothing in all the honourable gentleman had uttered with so much rant and fury, to induce him to alter his opinion. The motion was a necessary consequence of the resolution of the former night, and ought to be supported by every friend to the honour of the House, to the justice of the country, and the character of administration.

Mr. *Ponsonby* was sure, that after this very marked personal allusion which the honourable gentleman who spoke on the other side had made in so very broad a manner to him, there was not a member in the House who would not excuse him for so immediately pressing himself upon its attention. He owed this to that value he had always had for the good opinion of the House since he had the honour to be a member of it; but that good opinion was doubly due to him since the vote of the last night of meeting. The good opinion of an assembly so raised, so exalted, so justly established in the admiration and gratitude of the country, and so honourably entitled to the applause and approbation of the world, could not but be matter of increasing value to every man who could claim the happiness to enjoy any portion of it. The honourable gentleman said, if he had imbibed the principles of British law, he would not have advanced the tyrannical, despotic, and arbitrary doctrines he had maintained. He was extremely unfortunate if he had advanced such doctrines. But he was not aware that he had. It was in his recollection that he had been followed in that debate by an honourable and learned gentleman, not less high in authority for legal knowledge, than he was in legal station, (the Master of the Rolls). That honourable and learned gentleman had done him the honour to notice some part of what had fallen from him; and if he had been guilty of uttering those arbitrary, tyrannical, and despotic sentiments, which the honourable gentleman charged on him, he was sure they would not have escaped his animadversion. When the honourable gentleman supposed him deficient in the principles of British law, he conveyed an idea of distinction of countries. He was not ashamed of his country! and he trusted his country would never have occasion to be ashamed of him. But if the honourable gentleman placed a value on British blood and British connexion, he could boast, that as good British blood flowed in his veins, and his British connexions were as honourable as those of the honourable gentleman; and though he could not boast of those talents, which at so early a period

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of life raised the honourable gentleman to that high station, which others could attain only at a late period of life, by constant and toilsome exertion; though he who had but slowly and gradually, and at a mature age, attained the moderate elevation on which he stood, could not boast of such talents or such fortune, it was some consolation to him, that he had never before been charged with being the advocate of arbitrary power. He wished the honourable gentleman, therefore, in future, if he should do him the honour to notice what should fall from him, to confine himself to what he had said. Being forced up by the personal allusion made to him, he should take the opportunity to say a few words to the question before the House. The right honourable gentleman opposite had notified that Lord Melville's resignation had been tendered and accepted, but the right honourable gentleman had not at the same time notified that this was to be the conclusion of Lord Melville's political life. The resignation was but an act of obedience due to the sense of the House; but if it was to be understood that this obedience was to conclude the noble lord's political career, he had so little personal hostility to him, so little disposition to press on his feelings, or to aggravate his fall, that he would be disposed to acquiesce. But it remained now matter of consideration, Whether, having ceased to be First Lord of the Admiralty, he should still be suffered to hold his other offices of trust and emolument? He was a member of the privy council; and when persons had been struck off the list of that council for what they conceived their duty dictated, and without any vote or resolution of the House of Commons, was it not natural that the House, having passed such a resolution, should expect such a respect for it? He would put a case: Supposing the personal friends of Lord Melville in credit and power in his Majesty's councils, and suppose their creatures continually representing Lord Melville as an injured individual, hunted down by unjust persecution; if the public, during a vacation, should be continually impressed with the innocence of this injured minister by the venal advocates that could be so easily mustered in his cause, he saw no reasons why he may not before the next session be restored to his former situation in the cabinet. If the right honourable gentleman gave reason to understand that this was to be the end and issue of the noble lord's public life, he was not averse to the lenity of stopping the censure; but now there was nothing to prevent his return if his Majesty's ministers thought proper to advise his Majesty to employ him. There was no security at present against the re-employment of Lord Melville or any other person in like circumstances. As to the other parts of the busi-

ness, he could not consent to let them merge into oblivion. When the public money got into the hands of agents, or any other hands into which it ought not to have got, it was the duty of parliament to have it accounted for and restored to the public. He would also adhere inflexibly to the other points, that the person at the head of the treasury, as presiding over the whole administration of the public money, had been guilty of culpable negligence in overlooking their transactions. He was not disposed to impute any improper motives to the right honourable gentleman, or to make the charge lightly; but it appeared in the report that his superintendance was lax, and as a representative of the people it was his duty to call him to account; for though he was not a British lawyer, or a British representative, nor of British birth, he would here claim it as a privilege due to that portion of British blood that belonged to him, to consider himself the representative of the people at large, and to assume a right to investigate the administration of the empire in all its parts.

Mr. *S. Thornton* rose, in consequence of the allusions made this night and on a preceding one, to the evidence of an experienced and meritorious officer of the bank before the commissioners of naval inquiry. That officer (Mr. Newland) had there intimated that the drafts passed by the treasurer of the navy had not always expressed the service on which they were drawn, conformably to the provisions of the act of parliament. If this were the case, the bank was certainly to blame, as he held in his hand a copy of the power under which the paymaster had passed his drafts from the year 1786 until the resignation of Lord Melville. This power stated in express words, "that he should be particularly careful to specify in each and every draft the service for which the money was drawn." The fact was, that Mr. Newland, though at the head of the cashier's department of the bank, was not the officer under whose inspection the detail of this branch of business was carried on, and therefore had only delivered a matter of opinion. The officer who paid the drafts from the navy had assured the honourable member, that after every research in his power, and to the best of his recollection, no draft had ever been paid without specifying the service. Since August 1805, the mode of conducting the business had been varied, and sums were written off at once by the bank from the treasurer's account to that of the sub-paymasters of the navy, which accounts were kept also with that corporation. He had long considered Lord Melville an active, zealous, and meritorious servant of the public, and the movers must excuse him if he could not at once go the length of thinking with them, that he was deserving of such se-

vere degradation and punishment as the motion before the house went to inflict.

Mr. *Barham* entered his protest against the introduction into the debate of the personal allusion to the case of two noble characters, relative to whom he had formerly felt himself called upon to take an active part. Nothing could be more injudicious than this reference. He contended that no obligation had been imposed on them, no benefit conferred by ministers joining in their defence.

Mr. *Bankes*, though he was certain he was in no way entitled to offer his advice to the honourable gentleman from whom the motion came, with whom he had neither personal acquaintance, nor any political connexion, would yet take the liberty of recommending to that honourable gentleman not to persevere in this motion. If it should be persevered in at present, the same sense of duty which induced him to vote with the honourable gentleman the last night would oblige him to vote against him on this. He understood the sense of the adjournment on the former night to be, to allow an opportunity for his Majesty, from his own royal motive to remove Lord Melville; or for Lord Melville, feeling that he could be no longer an useful servant to his Majesty, under the stigma that had been cast upon him, to tender his resignation. Gentlemen seemed disposed to cavil with that resignation, but he maintained that such an act preceding any step taken by his Majesty in consequence of the resolution of the House, could not be imputed to any other motive than the noble lord's deference to the sense of the House, and his determination to conform to it as quickly as possible. It was to be considered also, that the resolutions that had been agreed to were but part of Lord Melville's case, and that they remained to be followed up with other proceedings. Could there be a better reason than this for abstaining for the present from the resolution now proposed? It was impossible to foresee what may come out in the inquiry which was agreed to on all sides. Could any one undertake to say that there may not be matter sufficient to call for an impeachment?—Was it then right to proceed further, when the grounds of the ultimate determination and proceedings which the House should adopt were so imperfectly made out? The precedents on the journals were, so far as he could make out, against voting an address, such as that proposed. He instanced the cases of Sir R. Walpole, Lord Ranelagh, and Lord Halifax. There was no instance of an address to remove a person not in office. Such an address, and indeed an address under such circumstances, would be absurd on the face of it. He did not think there could be any intention or any possibility of reinstating

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the noble lord in office in the interval between the present time and the period when this subject would be again under the cognizance of the House. It was possible too, that circumstances of extenuation may come out in the further investigation, which would induce the House to content itself altogether with what it had done. He believed such circumstances may exist, and he would see them with more pleasure than the circumstances of delinquency and malversation, which induced him to vote against the noble lord the last night. There being no precedent, no necessity, and no probability of his returning to power, he would vote against the motion.

The *Chancellor of the Exchequer* rather hoped and expected that the express understanding which had been given, and which he had no difficulty to confirm, would have prevented further argument, and put a stop to any ulterior resolution. The House, he was sure, would be disposed to spare those who were nearly connected with the noble lord, as well as those who could not help feeling the tenderest friendship for him; a feeling which he was sure the house would not be disposed to censure. It was impossible while the vote of the former night was entered on the journals, that the House could apprehend any danger of seeing the noble lord again in office, unless the vote itself were at an end. As to the extension of the inquiry, if any thing should come out in consequence of that to change the opinion of the House, he was sure gentlemen would allow that the resolution should be changed with the opinion. But in no other case than the House being convinced that the resolution was founded in error, and rescinding it on that ground, could the crown be advised by its ministers to re-employ the noble lord. He had been misconceived by the honourable gentleman opposite (Mr. Grey) in the expression of surprise he had uttered: it was surprise, not that the honourable gentleman should imagine there was no danger of his return, but that he should not, in the confidence that it could not take place with the resolution on the journals, think it unnecessary to press this motion, which went only to attain the same end, though by a different mode. This understanding, while it was conformable to the liberality of the House, would not take from its firmness the means of enforcing its resolution.

Mr. *Fox* rose to reply; and after some introductory observations, proceeded in substance as follows:—The right honourable gentleman who spoke second in the debate, has delivered himself in a manner so extraordinary and injudicious, that it is really hardly worth while to take notice of his observations. The resolutions of the House on Monday night seem so completely to have irritated the right honourable

able gentleman, and so fully to have overpowered his mind, that he has this evening taken an opportunity of throwing forth his indignation without providing himself with any grounds on which to exercise it. He has chosen to attack, without the slightest appearance of truth, my learned and honourable friend (Mr. G. Ponsonby) as the author of arbitrary and despotic doctrines; and on this I shall not long detain the House, after what my learned and honourable friend has said in so satisfactory a manner. The right honourable gentleman accuses my honourable and learned friend of arbitrary doctrines, because he says, that a person proved by evidence to have been guilty of a most corrupt use of the public money should at least be suspended from h office till the charges against him be fully investigated. Now all that I have to say on this is simply, that if such doctrine be arbitrary, the most eminent lawyers in the kingdom have never been backward to promulgate it. It is a doctrine universally acknowledged and acted on in all the relations of life. When we hear or read of a servant, or a steward, suspected of peculation, or any other breach of trust; and not merely suspected, but actually confessing guilt; we of course order them to quit the office where the grounds of suspicion arose, conceiving that persons so situated are utterly unworthy of trust. But perhaps the right honourable gentleman meant to take up the business of the Tenth Report, and was therefore unwilling to incur the charge of prejudice by the discharge of Mr. Trotter before the trial took place. Under what circumstances is it that the right hon. gentleman determines to retain Mr. Trotter in the important office of paymaster of the navy? He had heard that before the commissioners he refused in some cases to answer questions at all, and in others had given equivocating replies. He had heard that he not only refused to answer questions to which, supposing him innocent, the reply was quite obvious—but he had known him to have used every effort to retard the investigation of the commissioners; and after all this previous knowledge, the right honourable gentleman retains him in his employment as paymaster. What, then, is the reason for this most extraordinary conduct? It is, sir, that Trotter's case was *sub jure*, and the right honourable gentleman does not wish to prejudge him on his trial. The right honourable gentleman has this evening declared that Trotter is dismissed, when he is as much *sub jure* as he has been at any period since the commissioners finished their examination. Trotter has not been formally condemned by the House, for we have found him guilty only collaterally, our resolutions on Monday evening being exclusively directed against Lord Melville. Perhaps, sir, the right honourable gentleman was

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alarmed by the impression made by our proceedings, (and they were calculated to make an impression on persons like the right honourable gentleman,) and, by a sudden impulse of feeling, thought it most prudent to discharge Trotter without further delay. I cannot impute this decision to any other principle; for all the reasons that operated for retaining Trotter for several months back, still continue in force. The next feature in the very extraordinary speech of the right hon. gentleman, was the argument he used for the lenient application of our resolutions against Lord Melville, and the circumstances on which this lenity is to be founded. Perhaps, in what I am now about to say, the right honourable gentleman may think me bitter and rancorous; but in spite of this, I feel myself called on to say, that I shall never sit in this House, and patiently hear these extravagant panegyrics on Lord Melville's public conduct. I am at a loss where to find what are the circumstances which are to incline us so powerfully to mercy. What particular claims does he possess to induce the House to pass over his aggravated offence with a comparatively trifling punishment? Is this motive to lenity to be found in the eagerness which his lordship has ever shown to heap up emoluments, and to systematize corruption? Is it in the gift of the chamberlainship of Fife granted to his wife, with arrears to a vast amount, procured under false pretences? Is it in procuring a year ago fifteen hundred a year in addition, not, sir, to the salary of first lord of the admiralty, for I know that is very inadequately paid, but in addition to his salary as lord privy seal for Scotland? But, sir, the right honourable gentleman lays great stress on his discovering no political or party partialities in the appointment of officers, either for the naval or military service. I deny, sir, that there is the least merit in this supposed impartiality. It is what every minister, whoever he be, is obliged to preserve an appearance of, as an open dereliction of it would be attended with instant disgrace. I need not remind the House that Lord North sent Sir Charles Saunders and Admiral Keppel to the Falkland Islands, though that expedition unfortunately failed. Indeed, party distinctions were almost always, from necessity, overlooked. But, sir, I cannot hear the right honourable gentleman stating that the noble lord was free from party violence, without reminding the House of one or two circumstances, which demonstrate existence of party spirit in all its most intolerant and disgusting features. I shall mention one, sir, which fell within my own knowledge, and which will fully illustrate my position. At a period of the late war, when the danger of invasion was supposed to be at the height, when offers of voluntary service were eagerly accept-

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ed, a numerous and loyal body of men in Tavistock made a tender of their services. The tender was refused by this self same moderate Lord Melville, on the sole ground, for no other could be alledged, that the corps, when raised, was to be commanded by the late Duke of Bedford. It may perhaps be imagined, that my feelings at the recollection of the deceased are so strong as to hurry me into some degree of exaggeration; but I solemnly protest that I am stating the matter precisely as it happened. And yet, sir, we are to hear of Lord Melville's moderation and perfect freedom from all party spirit. There is another circumstance, which also pretty strongly illustrates his lordship's forbearance and superiority to any of the workings of the angry passions. It is well known that the Dean of the Faculty of Advocates in Edinburgh is generally the most eminent person in the profession, and that it is seldom customary to interfere with him from any political considerations. Yet this mild and moderate Lord Melville actually did interfere, and by employing all the influence of government against the Hon. Henry Erskine, a gentleman confessedly the most eminent at the Scotch bar, he was actually dispossessed of a situation which he had many years held with the greatest honour and credit. So much, sir, for the boasted liberality of the noble lord, which we were called on to look to for a motive to influence our decision. As to the favour bestowed on two noble lords, on which the right honourable gentleman rested so much stress, I entirely agree with my honourable friend near me (Mr. Grey), in every one of his observations. The right honourable gentleman says, that my two honourable friends must possess Spartan virtue to be able to follow that line of accusation against the noble lord which they had pursued. If extraordinary exertions in virtue were required, I don't know any men in whom they would be more readily found than in my honourable friends. But I must beg leave to say, that they are under no obligations to the noble lord for the defence he made of those relations, to whom they were naturally so strongly attached. Sir Charles Grey and Sir John Jervis were selected for a very difficult service in the West Indies, which they performed with gallantry. Some misunderstanding, however, arising, they returned, and a charge was preferred against them in this House. If I recollect right, there were three divisions on the subject, when the minority were successively thirteen, fourteen, and seventeen, and this was the formidable phalanx which the noble lord had so much merit in combating. I take it for granted, that he believed the charge to be false; and if he did believe it to be unfounded, what merit had he in defending the gallant

officers? It was no more than indispensable duty to those whom he had employed on a difficult service, which they executed with promptitude, vigour, and success. If this be merit, it is impossible to say, how far the line of obligation may be extended. An honourable gentleman under the gallery (Mr. S. Thornton), has given a curious reason for voting for the resolutions on Monday night, on which it is impossible for me not to make a few observations.—He says, that he voted for the motion, conceiving the noble lord guilty of a certain degree of negligence and inattention. I confess I am utterly astonished at such a declaration, after attending to the language of our resolution, that the noble lord had been guilty of a gross violation of an act of parliament, and a high breach of duty. Surely, sir, this heavy charge is not to be confounded with inattention and negligence. How the honourable member could have misunderstood them, is to me incomprehensible, as they were particularly objected to on the other side of the House. With respect to the resolutions, it appears to me that they complete the criminal part of the charge against the noble lord, and I am not at present for pressing any further proceedings in that way. If the attorney-general is to proceed against him for refunding the money derived from the profits of money misapplied, this will be by civil, and not by criminal action; for recovery of money is always ranked among the civil actions. The same observation will apply to any action for recovering grants obtained under false pretences. I have the less objection to press the motion in the mean time, on the grounds of the pledge which the honourable gentleman has this night so distinctly given to the house. I find, sir, after a careful examination, that during his Majesty's long reign, now a period of nearly forty-five years, only the Duke of Norfolk and myself have been dismissed his Majesty's councils; and I assure you, sir, we want no such person as the noble lord to be our associate. I had almost forgotten Mr. Grattan, who had the like fortune in Ireland. None of us could, however, be proud of any connexion with such a man as Lord Melville has shown himself to be throughout his whole career of life. I have said, sir, I would not now press the motion to a discussion, in consequence of the right honourable gentleman's pledge; but I should be grieved indeed to see the resolutions passed without being followed by some lasting result. Such a work as that which we on Monday accomplished, must not be suffered to pass away unimproved. From one end of the empire to the other the people will rejoice in the hope that a better system is about to be adopted, and we must not let their just expectations be disappointed. It is necessary for us, by making Lord

Melville a signa mark of the vengeance of this House, to show the country that we are indeed their representatives—that we are determined equally to watch over their property and their liberties. The public have received our work with the purest gratitude; but is no part of this great work to belong to the government? Is his Majesty to have no opportunity of manifesting his paternal interests on the subject? In what situation do we leave our sovereign? The people applaud us in the warmest terms. They say the House of Commons have taken up our cause against the whole host of contractors and peculators. The House of Lords may do the same; and shall not our beneficent sovereign have an opportunity of expressing the warm interest he takes in every plan for alleviating the burdens, and improving the condition of his people? I admire this House as the corner stone of the constitution—as the source of all reforms and improvements—as the balance by which the constitution is kept in purity and vigour. But I do not wish to exclude the monarchy from its proper share in every beneficent work. I think our resolutions ought to be presented to the throne. Like us his Majesty has read the report, but he has not hitherto had an opportunity of expressing his feelings on the subject. I strongly impress this subject on the minds of ministers. They are bound to carry the resolutions to the throne. They owe it as a sacred duty to the king whom they serve. After a few more observations, Mr. Fox consented to withdraw the motion now, on an understanding that the whole matter should hereafter be fully investigated.

Mr. *Wilberforce* repeated the opinion which he expressed on Monday evening, as to the importance of the subject, and the necessity of searching into abuses, the existence of which was pregnant with danger to the constitution and the country. It was by no means his wish to shelter public offenders from that punishment which the House were imperiously called upon by their duty to inflict on them; but he certainly thought that the circumstances of the present case were considerably changed by the resignation of the noble lord, and he therefore confessed, that he wished the honourable gentleman would withdraw his motion; at the same time, if the honourable gentleman pressed it to a division, he by no means meant to say that he should vote against its adoption. In the execution of their public duties, public men ought not to be governed by any motives but those of public utility. He did not like the system of adhering to a party for the sake of that party alone. What had been said by an honourable gentleman that evening, showed the danger of acting on such a system, although he could not but admit that Lord Melville had at least acted liberally in

employing the two noble lords alluded to. Mr. Wilberforce concluded with trusting, that the determination of that House to reform the abuses in the public departments, would not be a transient one; and that the honorable gentleman would not hazard lessening the effect of the vote of the House on Monday, by persisting in his present motion, when it was evident that many members were unfavorable to the latter, who were warm in their approbation of the former proceeding.

Mr. *Kinnaird* would only trouble the House with one word on the observations made by the honorable gentleman in the gallery, founded on the remaks of the right honorable gentleman opposite, who had said, that no one ever accused the noble lord of being a bitter poli ical enemy. Had that right honorable gentleman been in Scotland, he would have heard the reverse; he would have heard that the Dean of Faculty, a most learned, able, and beloved man, had been turned out of his situation solely at Lord Melville's instigation, without any offence having been alledged against him, but a difference of opinion on political subjects. This was as gross an instance of bitter party spirit as he had ever heard of.

The *Secretary at War* had meant cautiously to abstain from uttering a word on the subject which was under the consideration of the House, had he not felt himself loudly called upon by the statements of the honorable gentleman who had just sat down. He wished to ask that honorable gentleman at what period he had discovered that Lord Melville was a bitter political enemy? Was it during the days and weeks of social friendship which he had passed with the noble lord? and did he now in the hour of his need, show his gratitude by introducing extraneous accusatory matter at the close of a debate, when the question did not demand it, and when those who had proposed the motion to which the discussion of to-night owed its origin, had intimated their intention of withdrawing it? He trusted that in the breasts of Englishmen there existed feelings which would revolt at such conduct. With respect to the history of the expulsion of the Dean of Faculty from his situation, he would briefly state the facts. At a time when democratic principles were but too prevalent, a meeting had been called of those who were named "Friends of the People." At this meeting the Dean inadvertently, or rather injudiciously, attended, and by his attendance gave a sanction to the proceedings. Without the slightest interference on the part of Lord Melville, who had nothing whatever to do with the business, the Faculty, indignant at such conduct, brought forward a motion to deprive the Dean of his situation;

situation; a step in which he repeated that they were entirely uninfluenced by the noble lord alluded to.

Mr. *Fox* remarked, that although it perhaps would have been as delicate, had the observations of his honorable friend been suppressed, yet it should be recollected that he had been provoked to make them by the assertions of the right honorable gentleman opposite, and of the honorable gentleman in the gallery.

Mr. *Kinnaird* declared, with considerable warmth, that were he not convinced the House must be aware of the futility of the charges that had been exhibited against him by the honorable gentleman, he should consider himself bound to call upon him for further explanation. Was it decent to expect, that because he had lived on terms of good neighbourhood with Lord Melville, whose private character he highly esteemed, he should therefore withhold his opinion in the House on his public conduct?

Mr. *Whitbread* observed, that he had been arraigned for the great bitterness which it was said he had evinced in his speech at the commencement of this evening's debate; and on a former night he had been accused of introducing more of passion than became him in the observations with which he prefaced the Motion that he had the honour of submitting to the House. To prove the existence of this bitterness, and this passion, his observations had been industriously misrepresented. He had never blamed Lord Melville for having tendered his resignation to his Majesty; on the contrary, he thought it was a step highly incumbent on him, and the omission of which would grossly have aggravated his misconduct. But this he had said, that Ministers were deeply culpable for not having anticipated his resignation by a dismissal. The two delinquents were equally guilty, yet Mr. Trotter was dismissed with disgrace, Lord Melville was allowed quietly to resign. He should say little on the charge that had been brought against him, of having ungratefully attacked a man, who in 1795 defended two noble lords, to one of whom he had the honor of being related, as the subject had been so ably defended by his honorable friend. He was far from thinking that these noble lords were under the slightest obligation to Lord Melville for what he had said on that occasion. Did the right honorable gentleman mean to assert that lord Melville had done a job for his noble friends in that instance, and therefore that he was bound now to do a job for Lord Melville in return? Lord Melville had spoken favorably of the conduct of the noble lords; if he did not think favorably of it, he had certainly acted

wrong;

wrong; and if he did think favorably of it, his expressing that opinion was merely justice. It appeared from what had fallen from every quarter of the House, that the general sentiment was, that it was highly improper that Lord Melville should ever hold a situation of trust in his Majesty's government. A kind of promise had been given by the right honorable gentleman opposite, that he should never hold such a situation. On this promise he was inclined to rely; it might be good to hold as long as that right honorable gentleman himself continued in office; but might not his Majesty change his advisers, and might not Lord Melville be again admitted into his councils? What means had the King of knowing what was done in that house? Had the right honorable gentleman communicated their resolutions to his Majesty? That could not be, else he must have been dismissed, and would not have been allowed to resign.—The honorable member felt anxious that the House should stand high in the public opinion—he felt doubly so, after the proceedings of last night, lest it should be again let down. He begged to be allowed to state the way in which matters stood on the morning when they last adjourned. Many members were anxious that the concluding motion should be made. He intimated his intention of bringing it forward that very night. Nothing fell from him indicative of any intention to relinquish his motion; he only wished to postpone the moving it for a few hours on account of the exhausted state of the House. The right honorable gentleman, without assigning any reason for the additional delay, proposed an adjournment for thirty-six hours. This was objected to by his right honorable friend (Mr. Fox) unless it was understood that in the interval no public business should take place; and the right honorable gentleman, with a countenance which he (Mr. W.) should not easily forget, said, in any view of the case it would be better to adjourn. Could it, however, be in the contemplation of the House, that this delay was for the purpose of allowing Lord Melville time to *resign?* If any member, however, found himself taken by surprize, he should withdraw his motion; but at the same time he knew that was not a thing calculated to satisfy the public. He said so, not in any spirit of resentment against Lord Melville, as if this resolution was necessary to make him feel his situation. If he had any feelings, and the honorable member entertained no doubt he had, nothing could wring them more than the resolutions already passed by that House. He was conscious the sense of the House went with him, that it was necessary Lord Melville should never again hold any office of trust. All, therefore, that he desired was to find out some way of entering this

opinion

opinion on the Journals of the House, and that the motion had on that account been withdrawn. The parallels which had been set up as to the motions against ministers being allowed to drop on their resignation, did not at all apply. They were made on the ground of incapacity; this was founded on a delinquency. He knew that in common cases to be expunged from the list of the Privy Council was no disgrace. It had occurred to his honorable friend (Mr. Fox). The right honorable gentleman, then in the plenitude of his power, had recommended it as a measure proper for his Majesty's adoption. He had, however, since retracted that opinion, and had recommended to his Majesty not only to restore him to that honor, but to promote him to his highest confidence. He had asked pardon for his offence before God and man. But could ever such a recommendation avail in favor of Lord Melville, after the resolutions adopted by that House? He was happy to understand that the Bank was not so much to blame as he had supposed; and also, by what fell from the right honorable gentleman (Mr. Canning) that the mode of conducting business in that office was entirely changed; such would always happen when principals began to do their duty.—But why, I must ask, was Trotter dismissed and Wilson not? The right honorable gentleman had said, Wilson was a deserving officer.—With all respect for the assertion of the honorable gentleman, he however, could not help having also a high respect for the authority and opinion of the commissioners of naval enquiry: they said, and the honorable member said too, that Wilson was an improper person to continue in his present or any other situation of public trust. The honorable member could not, after what had fallen from honorable friends of his, and from other honorable gentlemen, whose support he was anxious to procure, refuse in the mean time to withdraw his motion. He was anxious, however, lest the public should suppose that in passing their former resolutions, they had only adopted in a heat what they were unwilling to follow; he, therefore, had to suggest what he hoped would meet the opinion of every gentleman present;—That a copy of the resolutions of that house of the former night, be laid before his Majesty without any comment. Thus it would be impossible that Lord Melville should ever after be admitted to his Majesty's councils, and at the same time the resolutions of the House would be consistent.

It was then put and unanimously agreed to—"That the said resolutions be laid before his Majesty."

Mr. *Whitbread* then moved that the said resolutions be carried up by the WHOLE HOUSE.

Mr.

Mr. *Pitt* submitted, that as the resolutions were to be laid before his Majesty without comment, this formality ought to be dispensed with.

Mr. *Whitbread* said, that when he said without *comment*, he did not say without *form*. In so important a business, every species of ceremony ought to be adopted.

It was then ordered that the resolutions be carried up by the WHOLE HOUSE.

On the 29th of April, Mr. *S. Stanhope* moved, "That the attorney-general be instructed to pursue the most effectual means of ascertaining and recovering, in the due course of law, any sum of public money applicable to naval services used by Lord Melville or Mr. Trotter, subsequently to the 1st of January 1786."

Mr. *Banks* moved, as an amendment, "That a criminal prosecution should be instituted against Lord Melville and Mr. Trotter." This gave rise to a long debate, in which Dr. Lawrence, Messrs. Windham, Fox, Sheridan, and T. Grenville, took part.

Mr. Serjeant *Best* contended, that a prosecution by civil suit could answer no good purpose, but a criminal proceeding might secure the punishment of the offenders, who he denied were yet punished.

The House then divided,

For the original motion for a civil suit	223
For Mr. Banks's amendment - - - -	128
Majority —	95.

A division also took place on a motion of Mr. Grey, that the House should adjourn,

Noes - - - - - - - - - - - -	240
Ayes - - - - - - - - - - - -	98
Majority —	142.

May the 6th Mr. *Whitbread* being called upon by the speaker, spoke to the following effect:—Whatever motives may be attributed to my conduct during the course of the business which I have undertaken, there are none, I trust, who will not suppose that I have been impressed with feelings of anxiety; but those feelings were not to be compared with what I now experience. There are two points open before us: the one leads to immortal honour; and the other, if we are guided by mistake, will lead to the dishonour of the House, and the detriment of public interest. If it had been proposed that the resolutions of the 8th of April should have been immediately followed up by an address to his Majesty to dismiss Lord Melville from the places he holds, and from

from his councils and presence for ever, I apprehend there would not have been a dissentient voice.

The *Chancellor of the Exchequer* called Mr. Whitbread to order, and said, that the communication he had to make to the House would anticipate what the honourable gentleman might have to propose.

Mr. *Whitbread*:---Whatever communication the right honourable gentleman may have to make, will come with more propriety after the motion which I shall submit to the House. I do persist, that if Mr. Dundas had been a member of the House of Commons, and there had been a motion made for his expulsion, there would not have been a dissentient voice. If I possess accuracy sufficient to distinguish between the resolutions that have passed, and the measure I now propose, if the latter be not carried, I contend he is not punished at all. If he is sensible of remorse, and possesses a broken heart and a contrite spirit, he is punished, in one sense, superior to any punishment that can be inflicted by this House, inasmuch as it is inflicted by a higher hand; but it behoves us to inflict some punishment to serve as an example to others. We must take care that no man in his situation treads in his steps. There were three parliamentary methods of pursuing delinquents of this description:---1st, Impeachment; 2dly, A bill of pains and penalties; 3dly, A removal from all situations of honour and profit, in consequence of an address from that House. What I propose is lighter than these. After the order of the day for taking into consideration his Majesty's answer is disposed of, I shall move---"That an humble address be presented to his Majesty, praying that Lord Viscount Melville may be removed from all offices of trust and emolument which he holds during the pleasure of the crown, and from his Majesty's presence and councils for ever."

The *Chancellor of the Exchequer* conceived that the honourable gentleman would have confined himself, as is usual in such cases, simply to moving the order of the day in the first instance. He should have then stated a communication from his majesty, which, perhaps, in his own judgment, as well as that of the House, would have made his motion unnecessary. The communication is this: *That his Majesty has been advised that the name of Lord Melville should be struck out of the list of the privy council, and that accordingly it would be erased on the first day that a council should be held.* As soon as the prevailing sense of the House was for removing Lord Melville from the privy council, he felt it his duty to advise his Majesty accordingly. He could not dissemble, that he felt a deep and bitter pang at being the person to whose lot it fell to execute such a painful duty, as that of doing any thing

to add to the punishment of the noble lord.—It was a feeling of which he was not ashamed—a feeling he could not separate from his bosom. He could only separate it from his conduct, when he thought he was acting on principles of public duty—a conformity to the sense of the House, and with a view to avoid a discussion, which, if unnecessary, could not be less congenial to the feelings of every man in the House, than it would be painful to his own. He had reluctantly given his advice, and he was authorised to state, that his Majesty had determined to act upon it. [*During the latter part of these observations, the right honourable gentleman appeared extremely affected*].

Mr. *Fox* congratulated the House and the country upon what had fallen from the right honourable gentleman. The cause of justice, he said, had completely triumphed; still he could have wished that the erasure of Lord Melville's name from the list of privy counsellors had been done in a different manner; and instead of the right honourable gentleman collecting the necessity of such a measure from the sense of the House by canvassing individual members, he wished he had collected it from the resolutions of the 10th of April. Some conversation ensued between Mr. Fox, Mr. Pitt, &c. Mr. Whitbread then withdrew his motion.

June 11. The *Speaker* having stated that he had received a letter from Lord Melville, announcing his readiness to attend and be examined relative to the Tenth Report, the Serjeant at Mace was dispatched to inform him that he might come in; and on entering, a chair was placed for him within the bar.

Lord *Melville* began by observing, that since the first agitation of the subject, he had made every effort to obtain a hearing, but without effect: that when called before the Commissioners of Enquiry, he was wholly unacquainted with the nature of the accounts they possessed between Messrs. Trotter and Coutts; that when he applied for an opportunity of making fuller explanations, he was answered, that their report was before parliament, and they did not think it necessary to alter what they had done. When the discussion came on, whether previous inquiry should be instituted before resolutions were adopted against him, he hoped that a Committee would be appointed, and that he might be heard before them; but in this he was disappointed from a difficulty which arose in the other House; and that at length, being permitted to explain himself in his present situation, he came under such restrictions as would not allow him to enter upon his defence. He, however, begged to make some preliminary remarks; and he began by solemnly protesting that the resolutions of the House, which stated

that

that he had connived at the violation of the act of the 25th of the king, were erroneous. He never had any knowledge of Mr. Trotter's investing any navy money in the stocks, of his discounting bills with it, of his turning it to purposes of private advantage, and that if any such practice had existence, it was altogether without his privity or consent. He would therefore confidently assert, that the evidence of the only two persons, Mr. Trotter and Mr. Wilson, who could be supposed to be privy to the whole, does not contain one tittle which could lay any foundation for this charge. With respect to the origin of his connexion with Mr. Trotter, he spoke as follows:—"When I first came into the Navy Office, I found Mr. Trotter, who was introduced and recommended to me, by Sir G. Elliott and Mr. Coutts, with the latter of whom he had connexions in the way of business. I soon distinguished him for his uncommon activity and diligence. He was indefatigable in detecting and disclosing to me a variety of frauds before committed, in withholding the pay of seamen, and different emoluments to which they are entitled. I encouraged and supported him in the prosecution of the parties guilty of these mal-practices. I was desirous of going farther, and, instead of confining the protection of government to the sailors themselves, of extending it also to their wives, children, and families. In my endeavours to effect this, Mr. Trotter made himself so useful, in laying before me the best arranged plans for producing the effect, that I thought him worthy of being trusted; and for his unwearied exertions, on the death of Mr. Douglas, I promoted him to his late situation in the office; and, I am even now ready to say of him, that, for a great length of years, no public office could have been better conducted; that during the whole of that time there was not a single instance of any stoppage or delay of payment to the seamen, and that all the balances were fairly accounted for, and transferred, without the loss of a single shilling to the public. He received, it is true, an additional salary; but that I thought him fully entitled to, for his additional exertions." He then asserted, that on no occasion whatever had he authorized Mr. Trotter to draw money from the Bank for his own private emolument, and that there is not the smallest evidence to support the charge; that he only allowed Mr. Trotter to lodge money at private bankers for making payments with facility. He added, that notwithstanding the restrictions he was under, he must say, that the assertions contained in the report are false, and in contradiction to the evidence which was given. The act of the 25th of the king, of which he allowed he had some knowledge, never intended to make a regular digest of regulations for the office of Treasurer of the Navy. Its true object was to restrain treasurers or paymasters from retiring from office, as had

frequently been done before, with large balances unaccounted for. During the whole of his own administration, that law was rigidly complied with; and in retiring from office, he has not been accused of retaining any balance whatever. He observed, that the House should consider that, beyond the necessary controul of the Treasurer, his office is quite distinct from that of the paymaster, and that of the paymaster-general not very much connected with those of other persons employed in that department. A great deal of money must pass through the hands of inferior officers in different parts of the country where the demands are made. In the month of January last, the pay-office was kept open for a long time, to make good small demands; and there were 6,802 payments made in different sums, from 3l. or 4l. so low as 4s. 6d., and many of them even to a smaller amount, to supply such sums as different sailors were entitled to. It must, therefore, be obvious, that to answer such numerous demands, it is necessary to have always a very large sum, either in the iron chest of the office, or at some convenient banker's, as it would be endless to pay them all by drafts on the Bank of England, specifying the names of the persons in whose favour they were drawn. He therefore thought it but fair and reasonable that the paymaster should derive some advantage from the money placed in the hands of the private banker, on the mere principle of mutual accommodation:—the practice was not peculiar to his administration; but had been continued two years after he resigned; and he would contend that it was preferable to leaving the money in the Bank in the hands of sub-accountants. He entered into a detail of the nature of Trotter's employment as paymaster; and asserted, that from the nature of the transactions between them, it was impossible for him (Lord Melville) to give any precise explanation. He had availed himself of the 5th clause, not with any view of screening himself, but for the purpose of withholding disclosures, which, as the facts were connected with the public service, it would have been extremely improper for him to have divulged. He next adverted to a charge against him, of having ordered the public money to be laid out for his advantage and behoof, which, to the best of his recollection, he denied. This, he remarked, was a singular expression, but it was one which was generally used by him when talking of past transactions. A good deal of acrimonious wit had been expended on this expression, but his literal translation of the phrase was, that he had never given any orders to any such effect. He next made an elaborate statement on the situation in which he stood with Mr. Trotter; in the course of which, he said, it was impossible for that gentleman to make up his accounts, with any degree of correctness. Personally, he had no means of aiding him in that way, and therefore he stood completely at Mr. Trotter's mercy. He enlarged on

the supposed connexion between himself and the late Mr. Tweedy, which he denied; and declared, that instead of being intimate with him, as Trotter had asserted, he knew him only as a messenger, and never had occasion to speak to him above twice in his life! He next entered into various details of several pecuniary transactions relative to the 40,000l. applied to Boyd and Benfield, and vindicated his conduct in that transaction. He insisted that Trotter could never have meant to say that he advanced 20,000l. for him on any one day: and he admitted that he gave his consent to the application of the 40,000l. in concurrence with the opinion of the superior servants of government: for this he was willing to take his share of responsibility; and he appealed to the liberality of the House for a fair interpretation of his conduct. His lordship then retired.

Mr. *Whitbread* began by expressing his satisfaction that Lord Melville had at length defended himself, and lamented that the forms of the House would not permit him to hear his (Mr. Whitbread's) reply. He deprecated the observations of Lord Melville on what he stated to be the prejudgment of his case; and that, as he had stated his innocence, he ought to have informed the House by what means they could ascertain it. The public mind could not be otherwise than inflamed against him, because he had conducted himself in such a way as to excite general indignation; and by his reflections on the partiality of any jury that might try him, he reflected on the whole country. He should have thought himself wanting in his duty if he had not brought forward the present motion. He had proposed that the committee should take into consideration the 14 resolutions respecting the conduct of Lord Melville; but this the House had refused, and had constituted the committee under several restrictions, which were soon after discovered to be directly contrary to the due course of justice. This, it was conceived, would operate as a complete bar to impeachment, as a civil and criminal prosecution could not go on at the same time. But were there no instances of two processes of that kind going forward together? In a case of common assault, might not a man be indicted for that offence, in order to be made a public example, and at the same time be prosecuted by a civil action for the recovery of damages. In the present case it was impossible the country could consider the restitution of the money to be any thing like compensation, or atonement for the offence. Even were there a bar to impeachment in existence, it ought to be removed. He descanted in this strain for a length of time, and made many severe remarks on the conduct of the chancellor of the exchequer, whom he accused of screening his lordship from the censure of the address which might

have been voted to his Majesty, to strike him from the list of privy-council, by stating that he had it in command from the king to inform the House, that his Majesty had resolved to strike out Lord Melville's name on the next meeting of the council. On that occasion Mr. Pitt had been compelled to give such an intimation, as he was afraid of being out-voted by a great majority. From the report of the select committee, much new matter had come out: indeed in his mind, it was of so serious a nature, that the House would feel it impossible to resist the motion for an impeachment, with which he meant to conclude. "For," said he, "without receiving satisfactory evidence to the contrary, I hesitate not to charge it upon Viscount Melville, that the sum of 10,000l. was converted to his private use, and also the 20,000l. the disposal of which was never explained. It is in vain for him to repeat assertions, that he acted from the purest motives; or to indulge the delusive idea, that his memory will descend to posterity without a blot, unless he comes forward to trial, and after a full investigation, purges himself from every suspicion which now attaches itself to these transactions." He then recapitulated the charges contained in the report and its appendix, and contended that Lord Melville ought to have prayed the House to hear him in his defence on the first publication of the Tenth Report. At length he concluded by moving, "that it was the opinion of the House, that Lord Melville has been guilty of several high crimes and misdemeanors, and ought to be impeached for the same."

Mr. *Bond* thought an amendment to the motion would be proper, as the House seemed embarrassed at the present method of proceeding. He thought the censure of the House, already passed, was a grievous punishment; but still there was ground sufficient for a different proceeding. He took a view of the charges imputed to Lord Melville, and declared he had no doubt of his criminality; but he suggested as an amendment, "that the attorney-general be directed to commence a criminal prosecution against Lord Melville, founded on the offences laid down in the report, and that he be directed to stay the proceedings in the civil suit already instituted."

The *Master of the Rolls* spoke in favour of a criminal prosecution rather than the mode proposed; but contended that his lordship had already been sufficiently punished: and the only new point brought to light by the select committee was, that his lordship had signed a release which had been sent to him by Mr. Trotter, containing a clause for the destruction of vouchers, while it did not appear that he was aware of this clause. His crime was therefore nominal. As to his

having

having participated in the gains of Trotter, this was merely suspicion, and he did not see how any jury could be justified in drawing such a conclusion. In short, after what he had suffered, were he to go to a new trial, it would be an event unexampled in the pages of history.

Mr. *H. Browne* agreed with the last speaker, as he thought that no new matter had been disclosed by the select committee; but if any further means were to be adopted, he thought that impeachment would be more becoming the dignity of the House.

Messrs. *Alexander* and *Cartwright* spoke strongly in favour of Lord Melville, and against the motion.

Earl *Temple*, Lord *Henry Petty*, the Hon. *J. S. Cocks*, and Mr. *Pytches*, made many severe animadversions on his conduct, and contended for the impeachment.—At three o'clock the debate was adjourned.

June 12. The order of the day being resumed on the motion for the impeachment of Lord Melville,

Mr. *Leycester* entered upon a defence of Mr. Wilson, (the gentleman who acted under Mr. Trotter, and whom Mr. Canning refused to dismiss,) and contended that it was both candid and honourable to maintain him in his situation. With respect to Lord Melville, he had no scruple in saying, that if this was a motion against him for the first time, on all the facts he should not give it a negative, because it would be founded on charges to which no satisfactory answer had been given. Alluding to the resolutions of the 8th April, he declared he could find nothing in the Tenth Report that justified them in stating that his lordship had drawn money from the bank for the purposes of private emolument; and therefore the proceedings had been premature. He even differed from Mr. Bond, with respect to the criminal prosecution; for a civil action having been commenced, he thought it unjust to attempt greater severity. He, however, admitted that the account of Lord Melville, of the 10,000l. and the half of 23,000l. was unsatisfactory, but it appeared that they had been repaid without interest, and there was no proof that the public had lost a shilling by any transaction in which he had been concerned. As to the release, although there were some suspicious circumstances attending it, he confessed he should have executed it, without considering the clause in it as extraordinary. He considered what had happened as sufficient to deter any person from a similar offence; and the man who was not affected by the disgrace which had befallen his lordship, would not be deterred by any thing.

Mr.

Mr. *Wilberforce* dissented from the opinion of Mr. Leycester, and was convinced it was necessary to adopt some further measure. Those principles the noble lord laid down to justify his conduct, appeared to him infinitely more injurious than the particular acts that called upon him for his defence; and so far from any thing that fell from him tending to justify his conduct, or to prove that the House had been wrong in any of the steps adopted with respect to him, it had a direct contrary effect on his mind; insomuch, that he conceived it unnecessary to argue that the act of parliament was violated, particularly as Lord Melville received 2000l. a year for the express purpose that no private use should be made of the public money. There was an inconsistency between his speech and his former statement; and the only part which appeared to him satisfactory, was his reason for keeping the treasurership of the navy, viz. that he had the ministry of the affairs of India, in which he (Mr. Wilberforce) thought his conduct highly meritorious. He had heard a person who was governor-general of India say, that during the whole time he was in power, Lord Melville never desired him to take a single step that was in the slightest degree painful to his feelings. In his lordship's defence, Mr. Wilberforce confessed he was most struck with his remark about the 10,000l. and respecting which he stated he would give no account to the House, or to any other person. Such a declaration as this would be astonishing, coming from any man; but from a man of Lord Melville's knowledge of this country, its laws, its criminal proceedings—one in the habit of making defences for other people—that such a man should set up such a defence for himself, was so astonishing and extraordinary, that nothing but guilt itself could have suggested it!—What is it, says he, but to lay down a principle, which, if the House were to adopt, would put an end to the British constitution?—What is it but to say, I will be greater than the law. I will be above the constitution?—In short, it is a libel on the constitution to suppose such a thing will be suffered:—it would open a door to prodigality and corruption: and if it had occurred in the time of Charles II. that profligate monarch would only have had to say to his minister, that he had spent 40,000l.—wanted more—and did not chuse to give any account of it. He admitted that his lordship had sustained a severe punishment; but he could not conceive that, by presenting the resolutions to the throne, the House was prevented from pursuing further steps. "The main question to ask," said Mr. Wilberforce, "is, Whether, on the whole, this motion having been brought forward, the punishment Lord Melville has received

is sufficient; and whether we can, without violating our duty, vote against the Motion? We have traced a large sum of money into the hands of Lord Melville, and he ought to explain what he has done with it. If he does not explain, the House ought to call on the justice of the nation to follow him.

Lord *Castlereagh* ardently entreated the House to adopt the Civil Process. He reminded them that Mr. Fox had distinctly stated, that he would be satisfied if Lord Melville were dismissed from his Majesty's Councils for ever. With what kind of consistency, therefore, could those Gentlemen who acceded to the Civil Process, now abandon that cause, and institute a Criminal Proceeding? When the Civil Process was recommended, the amount of the sum supposed to have been disappropriated was 60,000*l.*; now, however, that sum was reduced to 10,000*l.* He traced the conduct of Lord Melville with regard to Mr. Trotter, and inferred, that if he had intended to accumulate a fortune, he would have established a bank of his own, and not have admitted Trotter to make a loan for him of 20,000*l.* Although he acknowledged that Lord Melville was unfortunate, yet he did not see any thing at present at all new, to justify the House in its departure from the Resolution at first adopted. The object indeed seemed to be to punish him piece-meal, a method foreign to the Constitution, and repugnant to the feelings of the People.

Mr. *Grey* contended, that as the Civil Suit had been forced upon the House at the very time when the Criminal method of proceeding was proposed, it could not be alledged to have been sought for by those who supported the former Motion against his Lordship; but the present method was perfectly regular:—it was clear that a breach of the Act of Parliament had been proved, and that his Lordship had corrupt purposes in view. He wished the House to advert to the nature of the balances remaining in the hands of Trotter. The act was passed in 1785, and was to take effect in the month of July, the same year; Lord Melville, however, thought it expedient to suspend its operation till July 1786, and in the mean time contrived to accumulate the balances to about 104,000*l.*, when at the corresponding period in the preceding year there was only a balance of about 600*l* remaining in the hands of Lord Bayning. On these balances there was proof of actual profit having been made and paid to Lord Melville. Here Mr. Grey entered into a detail of the various payments made upon the accounts he had alluded to, which he stated as amounting in all to about 7,222*l.* After a review of various other points connected with the conduct of Lord Melville, he concluded with observing, that on the whole, there was such a mass of evidence contained in the two Reports, that he could not doubt that such a complete case of participa-

tion had been made out against Lord Melville as would justify their instituting a Criminal Impeachment.

Mr. *R. S. Dundas* thought it but justice to the House to remind them how much the conduct of his noble relative had been misrepresented. At the general meetings the most absurd falsehoods were propagated; and at one of them it had been asserted by a person high in rank, that the peculations of Lord Melville and Mr. Trotter were the original cause of the various loans and numerous taxes imposed upon the people. He proceeded to argue that Lord Melville would have afforded every satisfaction to the Commissioners, had he been permitted to have documents.

Mr. *Canning* made an animated speech against the Motion, in which he declared that Lord Melville had received much less justice in his examinations than a Criminal would have received at the Old Bailey.

Messrs. *Bathurst* and *Vansittart* spoke in favour of the amendment; and on a division, there appeared for the Amendment 238, against it 229.—Majority for the Criminal Prosecution, and against the Impeachment, 9.—Adjourned.

June 24.—Mr. *Leycester*, in consequence of the motion of Mr. Bond which stood for the next day, relative to the conclusion of the transaction respecting Mr. Jellicoe from the proceedings against Lord Melville, ordered by the House to be carried on by the Attorney-General, gave notice, that he should to-morrow move, that an Impeachment against his Lordship be instituted instead of the Criminal Prosecution formerly ordered.

June 25.—Mr. *Leycester*, after some observations from Mr. Bond, observed, " That the object of his Motion of which he gave notice yesterday, was, that the House should proceed by Impeachment against Henry Lord Viscount Melville, for the several offences charged in the Tenth Report, and that the Attorney-General should be directed to stay the Proceedings directed by the House on the 13th of June."

Mr. *Bond* concluded his reply, by observing, " That the House were to determine, whether they would alter a decision made in one of the fullest meetings ever known, and that too upon a notice only given twenty-four hours before the Motion."

Mr. *Fox* made a most able speech on this occasion. He remarked, that there were now about a hundred and one members fewer than on the former division. It appeared as if the Honourable Gentlemen on the other side were fighting the cause of Lord Melville inch by inch; and he was at a loss to determine whether such a conduct proceeded from favour toward Lord Melville, or a party triumph of a political kind, in order, at all events, to screen his Lordship from that degree of punishment which the House seemed disposed to inflict. He should

only

only say, that the decision given on a former occasion was one of the most solemn he had ever witnessed. Mr. Fox concluded, by moving "That the other orders of the day be now read," that the matter might either be entirely dropped, or that they might have time to come to a deliberate decision by a call of the House being made.

After other members had delivered their opinions, the house divided on Mr. Fox's Motion, Ayes 143, Noes, 166—Majority 23.

Mr. *Fox*, in the interval, when strangers were excluded, moved for a Call of the House, but the motion was negatived.

The Motion for an Impeachment was next put and carried without a division.

While strangers were excluded, Mr. Whitbread was appointed Manager of the Impeachment, and directed to go the next day to the Lords and acquaint them with the circumstances. An order was also made for appointing a Committee to draw up the articles of the Impeachment.

Strangers having been excluded a second time from the gallery, Mr. Fox, in that interval, contended for the necessity of a call of the House, for the purpose of considering whether it would not also be proper to rescind the vote of that night.—And he did move that the House be called over on that day fortnight. This motion was afterwards withdrawn.

At Two o'clock in the morning the House adjourned.

June 26.—The *Speaker* called the attention of the House to Mr. Whitbread, who was on his legs, with a paper in his hand, containing the determination of the House respecting Lord Melville, and ready to proceed to the House of Lords. The Speaker having desired that Gentlemen would be pleased to attend their messenger, Mr. Whitbread, attended by most of the Members present, proceeded to the House of Lords, and on his return acquainted the House that he had been to the Lords, and conformably to the Orders of the House had acquainted their Lordships of the determination of the House relative to the impeachment of Henry Lord Viscount Melville, of High Crimes and Misdemeanors, and that the House would exhibit to their Lordships articles of the charge, and make good the same. He then moved that a committee be appointed to prepare articles of impeachment against Henry Lord Viscount Melvillle.

On the question being put and agreed to, Lord Temple moved that Mr. Whitbread be one of that Committee.—Agreed.

Mr. *Whitbread* then rose and moved that the following Gentlemen, amounting in all to 21, be appointed members of the said Committee, which was agreed to.

Mr. Fox	Mr. Holland
Mr. Grey	Mr. W. Smith
Mr. Sheridan	Mr. Calcraft
Lord H. Petty	Mr. Kinnaird
Lord Marsham	Lord Porchester
Mr. Giles	Lord A. Hamilton
Lord Folkstone	Mr. C. W. Wynne
Mr. Raine	Mr. Jekyll
Dr. Lawrence	Mr. Morris
Mr. Creevey	Lord Temple

And Mr. Whitbread, whose name was placed at the head of the list.

This Committee having drawn particular articles of impeachment against Lord Melville, they were presented by Mr. Whitbread, at the bar of the House of Lords, on the 9th of July.

On the 4th of March, 1806, Mr. Whitbread, rose to state to the House, that the Committee appointed to prepare articles of impeachment against Henry Lord Viscount Melville, in the progress of its enquiries had made many new and important discoveries; in consequence of which, he moved, that the Committee should have leave to report such further information as had come to their knowledge; which being agreed to, he immediately brought up the following Report:

"The Committee appointed to draw up Articles of Impeachment against Henry Lord Viscount Melville; and who were empowered to report such further matters as shall have come to their knowledge, in the course of the examinations taken before them, with respect to the conduct of the said Lord Viscount Melville, during the time that he held the office of Treasurer of his Majesty's Navy—Have agreed to the following report:—

"Your Committee have already reported to the House several Articles of impeachment against Henry, Lord Viscount Melville, which they considered it their duty to prepare, without delay, upon the circumstances and transactions disclosed in the Reports referred to them.

"They have since applied themselves to the further investigation of the matters contained in those Reports, and having obtained much new and material information, which, in the judgment of your Committee, will make it necessary to prefer an additional article or additional articles of impeachment against Lord Melville, they think it their duty previously to submit the same to the consideration of the House.

"The attention of your Committee has been particularly directed to a sum of 10,000*l.* in which Lord Melville stated himself to be indebted to the Navy Pay-Office, when Mr. Trotter was first appointed

Paymaster,

Paymaster, in January, 1786. How, when, and for what purposes this sum of 10,000*l.* originally came into the possession of Lord Melville, is left, by the Reports referred to your Committee, wholly uncertain. It was manifest that it must have been received by Lord Melville, prior to the appointment of Mr. Trotter; and as the former Paymaster (the late Mr. Andrew Douglas) executed that office during the whole of Lord Melville's first Treasurership, and so much of the second, as preceded Mr. Trotter's appointment; your Committee thought it expedient to call for, and inspect, all such books, papers and accounts, of the late Mr. Douglas, relating to the Navy Pay-Office, as could be produced to them. Many of these were found in the possession of his widow, and the examination of them has, in the estimation of your Committee, brought to light very important matter; the truth of which is confirmed by information derived from other sources.

"It is already known to the House, that Lord Melville was first appointed Treasurer of the Navy, on the 19th of August, 1782, and that by warrant dated the 23d of October, 1782, his salary was increased to the net sum of 4,000*l.* 'in full of all wages and fees, and other profits and emoluments heretofore enjoyed by other Treasurers of the Navy.'

"It now appears that Lord Melville, on the 20th of August, 1782, (the day after he first entered upon his office) constituted Mr. Andrew Douglas his Paymaster; and that on the same day Mr. Douglas paid to the account of Lord Melville, at his Bankers', Messrs. Drummonds, the sum of 1000*l.* But as this advance seems to have been made to Lord Melville from the private funds of Mr. Douglas, it is here noticed by your Committee only to explain in part the subsequent transactions.

"Your Committee find, that until the 6th of November, 1782, all the money issued from the Exchequer to the Treasurer of the Navy for Naval Services, was regularly paid upon his account, as Treasurer of the Navy, to the Bank of England, whose clerks appear to have attended at the Exchequer to receive it. On the 6th day of November, 1782, this course of proceeding seems to have been, for the first time, departed from, there having been on that day 45,000*l.* issued from the Exchequer to the Treasurer of the Navy for Naval Services, of which sum only 40,000*l.* was paid to his account at the Bank, the remaining 5,000*l.* being, by the Treasurer's order, deposited by the Paymaster in an iron chest, then kept in the office cash-room, and called by him the treasurer's iron chest.

"On the 22d of the same month, the sum of 50,000*l.* was issued from the Exchequer to the Treasurer of the Navy; of which sum only 47,000*l.*

47,000*l.* was paid to his account at the Bank, the remaining 3,000*l.* being placed, as before, in the iron chest.

" On the 19th of December 1782, a further issue of 93,830*l.* 6*s.* 10*d.* was made from the Exchequer to the Treasurer of the Navy; of which only 90,830*l.* 6*s.* 10*d.* was paid to his account at the Bank, the remaining 3,000*l.* being in like manner taken to the iron chest.

" On the 2d of January, 1783, there was deposited in the iron chest the further sum of 5,000*l.* which was that day received from the then Mr. Welbore Ellis's ex-treasurership, in repayment of an advance to that amount, which had been made to that ex-treasurership from Lord Melville's account at the Bank, in compliance with a minute of the Navy Board of the 30th of November, 1782.

" The payments made into this iron chest, on or before the 2d of January, 1783, stand therefore as follow; viz.

1782. Nov.	6. From the Exchequer	L.5,000
	22. From Do.	3,000
Dec.	19. From Do.	3,000
1783. Jan.	2. From Mr. Ellis's Treasurership	5,000
	Making in the whole	L.16,000

" How this sum of 16,000*l.* so issued to the Treasurer of the Navy, for naval services, and by his order placed in his iron chest, instead of being lodged in the Bank, was, in the first instance, disposed of, is fully explained by the accounts and papers of Mr. Douglas.

" By these it will appear, that, on the 11th of November, 1782, five days after the first deposit in the iron chest, Mr. Douglas, the Paymaster, delivered to Lord Melville, upon his receipt, 500*l.* and on the following day 2,000*l.* more. On the 22d of the same month, 1,000*l.* more was in like manner delivered by him to Lord Melville, and on the 25th, the further sum of 3,000*l.*

" On the 19th of December following, the additional sums of 1,000*l.* and of 3,000*l.* were also delivered by the Paymaster, to or for the use of Lord Melville, upon his receipt; making, with the former sums, 10,500*l.*; respecting the particulars of which, Mr. Douglas appears to have at this time made a statement to, and come to a settlement upon, with Lord Melville.

" On the 4th of January, 1783, there remained in the iron chest 5,500*l.*; from which the sum of 3,000*l.* was on that day taken and paid to Mr. Jellicoe (then Deputy Paymaster), towards his office payments, leaving in the chest a residue of only 2,500*l.*; the whole of which residue was, on the 5th of April, 1783, delivered by Mr. Douglas to Lord Melville, upon his receipt.

" Of the 16,000*l.* so deposited in the iron chest, it appears, therefore

fore, that only 3,000*l.* was afterwards paid ont for naval services to sub-accountants, the remaining 13,000*l.* having been paid to Lord Melville, upon his receipt, as under; viz.

1782.	Nov. 11.	From the Chest to Lord Melville	500
	12.	Do.	2,000
	22.	Do.	1,000
	25.	Do.	3,000
	Dec. 19.	Do.	1,000
	—.	Do.	3,000
1783.	April 5.	Do.	2,500
		Making in the whole	L.13,000

" In which sum of 13,000*l.* Lord Melville thus stood indebted to the public, on the 5th of April, 1783.

" On the 10th of that month, Lord Melville, resigned his situation of Treasurer of the Navy, without having discharged any part of that debt, and leaving the balance of his Treasurer's account at the bank, deficient to the amount of the aforesaid sum of 13,000*l.*

" On the 14th of April, 1783, four days after his resignation, this deficiency was further increased, by a draft drawn on that day, by Mr. Douglas, upon the then ex-treasurership account at the Bank, for 10,000*l.* which though made payable to Mr. Jellicoe, or bearer, was not, as it appears, delivered to Mr. Jellicoe; but was paid to Lord Melville, upon his receipt; making the deficiency in his ex-treasurership account at the Bank, or in other words, his debt to the public, amount to 23,000*l.*

" And accordingly it is found, at the end of the same month, viz. 30th April, 1783, the office balance against Lord Melville was L.89,408 12 3

And the Bank balance in his favour, only 66,408 12 3

Being deficient by 23,000 0 0

" The whole of this 23,000*l.* appears to have remained due from Lord Melville until the 24th of June, 1783, when the reduction of it was begun by the payment of 1,000*l.* made by Mr. A. Gray (a clerk in the Navy Pay Office) to Lord Melville's ex-treasurership account at the Bank.

" Between that and the 31st of July, 1783, several similar payments were made by Mr. Gray, and by a commercial house then trading under

the firm of Muir and Atkinson; amounting in the whole to 15,400l. and reducing the debt of Lord Melville from 23,000l. to 7600l.

The dates and sums of these payments will be seen in the following account.

Dr. - - - - - Lord Melville. - - - - - Cr.

1783.	L.	1783.	L.
April 14. To Bank balance - - - -	23,000	June 24. By Gray - -	1000
		July 7. By Atkinson -	5000
		11. By Gray - -	1400
		12. By Atkinson -	6000
		31. By Do. - - -	2000
			15,400
		By balance	7600
	23,000		23,000

From the 31st of July, 1783, until after Lord Melville's re-appointment to the office, in January, 1784, he remained indebted to the account of his ex-treasurership at the Bank, in the above sum of 7600l. and no reduction of it took place until the 13th of March, 1784, when a sum of 2000l. was drawn out from his then second treasurership account at the Bank, and placed to his credit there in the account of his first, or ex-treasurership. On the 24th of April, 1784, the sum of 1000l.; on the 17th of June, 1784, the sum of 1500l.; and on the 1st of March, 1785, another sum of 1500l. were in like manner transferred at the Bank, from the account of the second to that of the first treasurership of Lord Melville, making in the whole 6000l. and reducing the deficiency in the Bank balance of his first treasurership to the sum of 1600l. but at the same time creating one of 6000l. in the Bank balance of his second treasurership; so that the gross amount of the public money withheld by Lord Melville from the Bank, in this respect, still remained the same, viz. 7600l.

It appears, however, that in the mean-time, on the 20th of August, 1784, Mr. Douglas, the paymaster, drew from the account of the second treasurership at the Bank, the sum of 2000l. for the use of Lord Melville; and on the 25th of May, 1783, a similar transaction took place to the same amount; by which means Lord Melville became on that day indebted to the account of his second treasurership at the Bank, as well in the sum of 6000l. before stated to have been transferred from it to the account of the first treasurership, as in the sum

of

of 4000l. drawn from it for private use, making together the sum of 10,000l.

"The whole of this sum of 10,000l. and also the sum of 1600l. due to the account of the first treasurership, continued unpaid by Lord Melville, until the 6th of October, 1785, when the 10,000l. deficiency was reduced to 9000l. by a payment of 1000l. (then due to Lord Melville for a quarter's salary) being made to the account of the second treasurership at the Bank. From that time, until after the death of Mr. Douglas, in Dec. 1785, and the appointment of Mr. Trotter to succeed him, in Jan. 1786, the deficiency continued unaltered; and there was due from Lord Melville to the public 1600l. in respect of his first or ex-treasurership, and 9000l. in respect of his second treasurership, making together the sum of 10,600l. Upon this statement it is evident, that Lord Melville had in his hands, when Mr. Trotter was appointed Paymaster, 10,600l. of the public money, which had been withdrawn from the Bank, and that the sum of 10,000l. which Lord Melville told Mr. Trotter was due from him to the account of the second treasurership, was not a debt arising from any specific sum taken from that or the former treasurership, but was, with the addition of 600l. the undischarged residue of 27,000l. taken by him at several times from the public money; 23,000l. of it being originally taken from the issues to the first treasurership, and the remaining 4000l. being taken from those made to the second.

"At what times, and under what circumstances, the sums composing this 27,000l. originally came into the possession of Lord Melville, your committee have thus been able to ascertain. For what further purposes they were withdrawn, and what uses Lord Melville afterwards made of them, they cannot, in every particular, at present fully state to the House. But a part is found to have been paid to Lord Melville's private account at his bankers', Messrs. Drummonds, and 1000l. to have been applied on the 19th of December, 1782, in repayment of the sum before stated to have been advanced to his lordship by Mr. Douglas, the day after his first appointment to the office. Other sums appear to have formed items of account between Lord Melville and Mr. Gray, who, as already observed, was a clerk in the Navy Pay-Office, and was, as your committee are informed, in the frequent habit of making pecuniary advances to Lord Melville.

"The application of the large sum of 10,000l. which was withdrawn on the 14th of April, 1783, by a draft in favour of Mr. Jellicoe, your committee have been able to trace; and it appears to have been used by Lord Melville as a loan to the house of Muir and Atkinson, with

whom he kept an account, and who appear to have been at that time in need of assistance.—This advance will be found to have been more than discharged before the end of three months, by the re-payments made by that house on the 7th and 12th of July, 1783, to Lord Melville's ex-treasurership account at the Bank.

"The use made of some of the smaller sums withdrawn, your committee have not yet discovered; but being strongly impressed with the importance of the facts now laid before the House, and apprehensive that the articles of impeachment, which were prepared before they were in possession of this information, are not so framed as to admit full evidence of all the circumstances herein detailed, they have endeavoured to discharge their duty, by stating them to the House, as the ground of a further article, to be added to those already preferred."

On the 7th of March, Mr. *Whitbread* moved the order of the day, for taking this report into consideration, which being agreed to, he said he should be as unwilling, as he thought it must be unnecessary, to take up the time of the House, by any observations, for the purpose of inducing them to concur in the report of the committee, and the motion he had to submit to them. But although the facts evidently spoke for themselves, he thought it right to say a few words respecting the mode of proceeding adopted by the committee. All must agree, that the information which last came to the knowledge of the committee, could not be withheld from the House of Commons, especially as it formed a new subject of crimination, to a greater extent than the former one. They discovered, that, during the time Mr. Douglas was Paymaster, Lord Melville had acknowledged, that he owed arrears from his first treasurership, to the amount of 10,000*l.* which had not been applied to public purposes; that his lordship remained a debtor to the public in the interval of the time that he was out of office; that he was debtor even at the time that he brought in his bill, and all the time that he continued in office, after the passing of the act. Some gentlemen were of opinion, that this additional charge might be included in the first article of impeachment; but, on the other hand, it was thought rather unfair, as it had not been offered at the time the impeachment was adopted. The committee had not, he said, received this information till two days before the end of the last session; they continued to sit every previous day. On the first day of this session, Lord Melville put in his answer, before the committee had gone through the laborious investigation which was necessary to get at the whole of these transactions. He was aware, that there was not, at least in modern times, any precedent of a fresh article being presented

after

after an answer was put in, but it could scarcely be contended, that the want of precedent could preclude the right of the commons of Great Britain; for otherwise, a general answer, put in at any time, would prevent them from proceeding any farther. All that he had to add was, that he had the pleasure to inform them, that as soon as Lord Melville should put in his answer to this additional article, the committee would be ready to proceed to trial on the earliest day the lords should appoint for that purpose. He then moved, "that the impeachment committee be directed to prepare an additional article of impeachment against Henry Lord Viscount Melville, upon the matter contained in the said report"—which was agreed to.

Mr. *Whitbread*, a short time afterwards, brought up the report of the committee, containing the additional article alluded to. It charged, in substance, that Lord Melville was appointed to the office of Treasurer of the Navy in 1782, and that while in that office, from that time to the 5th of January, 1804, and afterwards to the 1st of January, 1786, he, at various times, took different sums of the public money, to the amount of 27,000l. which he fraudulently and illegally converted to his own use, or to other corrupt purposes; and that he continued to do so during his treasurership, contrary to the act of parliament proposed by himself.

Mr. *Percival* disclaimed any wish of obstructing the course of the proceeding now proposed; he wished to suggest it as an object for the consideration of the gentlemen composing the committee, as they acknowledged this was the first time of presenting an additional article after an answer had been put in, whether it might not be an obstruction to it in another House, which might at least be productive of delay?

Mr. *Whitbread* replied, that the possibility of such an objection did not escape the attention of the committee, but the reason of the thing was so obvious, that an obstruction of that kind was scarcely to be expected. However, if the lords, on that account, should think proper to reject it, the House would then have to consider what further steps should be taken, and might prefer a fresh impeachment, which it would not be in the power of the other House to reject.

The report was then ordered to be taken into further consideration on the 10th, and to be printed.

Accordingly on that day Mr. Whitbread moved the order of the day, for the further consideration of the report of the committee on the further article of impeachment of Lord Viscount Melville; which being read, he moved, "that the said article be one other of the articles

against the said Lord Viscount Melville."—Ordered. He also moved "that the said article be engrossed; and that the commitee be appointed to draw up said article, and to exhibit any further articles; and that the said Lord Viscount Melville may be put to answer the same, and the committee to prepare a clause for that purpose."—Ordered.

He then brought up the clause, which was read twice, and ordered to be engrossed with the article of impeachment, The article, being the 10th, was then brought up, read, agreed to, and sent to the Lords by Mr. Whitbread.

A message was sent on the 24th of March, from the Lords, to inform the House that their lordships had sent the House a true copy of the answer of Henry Lord Viscount Melville, to the farther article of impeachment, being the 10th, charging the said Lord Viscount Melville with high crimes and misdemeanors.

The answer was read on the motion of Mr. Whitbread. It protested against the said 10th article, as an unprecedented matter not before known in the practice of parliament, but reserving to himself the benefit of, &c. The said Henry Lord Viscount Melville, in answer to the said article saith, that he is no way guilty of the high crimes, &c. laid to his charge, and this he is ready to prove, as the House may direct.

Mr. *Whitbread* then moved, that this said answer be referred to the committee for conducting the impeachment, to consider the same, and report their opinion to the House, as to what is further to be done in the business:—Ordered.

The honorable member immediately brought up the report, which was a replication from the committee to the answer; in which they reply, in the name of themselves, and the whole of the Commons of the united empire, and say, that the said Henry Lord Viscount Melville, is guilty of the said charges, and that they are ready to prove the same.

It was then ordered, that the said replication be the replication of the Commons to the answer of Lord Viscount Melville, and that it be engrossed.

On the 25th, Mr. Whitbread, attended by several members, appeared at the bar of the House of Lords, and presented, in the name of the Commons of Great Britain and Ireland, in parliament assembled, their replication to the answer of Henry Lord Viscount Melville to the articles of impeachment exhibited against him; and in which they aver, that the said Viscount Melville is guilty of the high crimes

and misdemeanors therein charged; and that the Commons were ready to prove the same.

The replication of the Commons, after being read from the woolsack, was ordered to lie on the table,

Earl *Fitzwilliam* moved, "that their lordships do appoint a time to hear Henry Lord Viscount Melville at the bar of the House."

This, on the question being put, was, after a few words from the Earl of Radnor, respecting the form of proceeding, ordered accordingly.

Earl *Fitzwilliam* then moved, "that Henry Lord Viscount Melville be tried at the bar of the House, on the 29th of April next, at eleven o'clock in the forenoon."

His lordship also moved, "that a message be sent to the Commons, acquainting them with such order of the House; and to require them to appoint a committee, &c. for conducting the said impeachment."—Ordered.

On the 26th Lord *Grenville*, after adverting to the recent communication from the House of Commons, respecting the approaching trial of Lord Melville, observed, that on that occasion he believed all their lordships had but one object in view, namely, the attainment of substantial justice with respect to all the parties concerned. At the same time, to consider the best, the most satisfactory, and, above all, the most speedy means, consistent with the great ends of justice in which that could be attained; they had not only to consider the regards of justice, with respect to the persons and individuals concerned, the prosecutors as well as the accused; but those of the country or the public, and the character and honour of that House. In these views, one of the first considerations that presented itself, was that of dispatch, which should be attended to as much as was possible, consonant with the primary object of the attainment of justice.—Many of the considerations to which he adverted could not regularly be brought under their Lordships' view; they might be discussed at subsequent opportunities, or be, if deemed more advisable, referred to the consideration of the committee already appointed to enquire respecting the usage and practice of the House on former cases of impeachment; and more especially respecting the most expeditious mode of proceeding with the trial. What he should in the present instance move their lordships upon, more immediately grew out of the communication recently made at their bar. He was aware of the strong objections which were urged upon the occasion of the last impeachment, which came before their lordships

lordships for trial; what had been said respecting the great delays involved in that proceeding; the enormous expences which those induced, were heavier than any which would have been imposed on the accused, had he been found guilty; though, by other means, those expences were prevented from falling heavily upon him. It was incumbent on that House, to take care that, in no future case, ground for similar objection should arise, at least as far as it was in their lordships' power to avoid it. One great means of counteracting this was, he repeated, to avoid all delay as much as possible; and to guard against this, one of the most efficacious means was, that their lordships, pending the trial, should be regularly summoned, and proceed with it from day to day. A mode which, he believed, would tend more to avoid vexatious delays, than any other that could be proposed; and he expressed his hope, that whatever resolutions their lordships might come to in these respects, would be firmly adhered to; and particularly that no business whatever, public or private, should be suffered on any day to precede the trial. A mode, in which the opinion of the judges also, when necessary, might be more expeditiously obtained, than that used formerly, may, he thought, be suggested; but these points, he repeated, might be considered on a future day, or referred to the committee, which still existed; the great consideration which he then endeavoured to impress their lordships with, was, that substantial justice should certainly be done, but in the speediest mode practicable. His lordship concluded by moving, "An address to his Majesty, praying that he would be graciously pleased to give directions to prepare a proper place in Westminster Hall for the trial of Lord Viscount Melville, &c."

On the question being put.

Earl *Stanhope* expressed his coincidence in opinion with the noble lord, that every delay should, as far as possible be avoided; and one of the best modes, he thought, to avoid delay, would be, that when a question should arise, their lordships, instead of immediately adjourning to the chamber of parliament, to take the sense of the House upon it, should stay and hear farther evidence upon the trial, before they came to a decision upon such question. With respect to the allusions made to the trial of Mr. Hastings, and the attendance of the judges thereon, he observed, it was the only case, he believed, on which the judges walked, and the trial stood still.

The question was then put, and the address moved by Lord Grenville immediately agreed to by their lordships.

On

On the 16th of April, the Earl of *Dartmouth* (Lord Chamberlain), acquainted the House of Lords that his Majesty, pursuant to their lordships' address, had been pleased to give directions for the fitting up a proper place in Westminster Hall, for the trial of Lord Viscount Melville; on which Lord Grenville moved that a message be sent to the Commons to acquaint that House with the circumstance, which was ordered and dispatched accordingly.

THE

TRIAL

OF

LORD VISCOUNT MELVILLE, &c.

FIRST DAY.

TUESDAY, APRIL 29TH, 1806.

THIS example of national justice, exhibited in Westminster Hall, was attended with all the pomp and solemnity suited to the dignity of the Accusers, to the rank of the Defendant, and to the splendor of the august tribunal of the British Peerage.

The Nobility, followed by the Princes of the Blood Royal, and the train terminating with the Heir Apparent of the Throne, entered the Hall about noon: they were all habited in the full robes of their respective ranks. When they had taken their place as assigned by the Principal King at Arms, the Serjeant at Arms arrayed in his costume of office, supporting the mace made proclamation in the following words:

"Oyez! Oyez! Oyez!

"Our Sovereign Lord the King doth strictly charge and command all manner of persons to keep silence on pain of imprisonment.

"Whereas, diverse charges for high crimes and misdemeanors, have been exhibited by certain Citizens, Burgesses, and others, in the name of themselves, and of all the Commons of the United Kingdom of Great Britain and Ireland, against Henry Lord Viscount Melville; all persons concerned are hereby required to take notice, that he now stands upon his trial, and they may come forth to make good the same charges."

Mr. Rose, junior Clerk of the House of Lords, then read the Ten Charges, to which Lord Viscount Melville pleaded Not Guilty.

ARTICLES,

Exhibited by the Knights, Citizens, and Burgesses, in Parliament assembled, in the name of themselves and of all the Commons of the United Kingdom of Great Britain and Ireland, against Henry Viscount Melville, in maintenance of their Impeachment against him for High Crimes and Misdemeanors.

"WHEREAS the office of Treasurer of his Majesty's Navy is an office of high trust and confidence; in the faithful and uncorrupt execution whereof, the subjects of this kingdom are most deeply interested: And whereas the ancient constitution of the said office of Treasurer of the Navy, and of other offices concerned in the receipt, disbursement, and controul of Public Money, having been found to be highly expedient in consequence of the increased expenditure of the country, did become the subject of frequent, long and serious deliberation in Parliament; and whereas by an Act of Parliament made and passed in the 20th year of the reign of his present Majesty, and by several subsequent Acts of Parliament, for appointing and enabling commissioners to examine, take, and state the public accounts of this kingdom, and for other purposes therein mentioned, certain commissioners were constituted and appointed for examining, taking, and stating the accounts therein particularly mentioned, and also for examining and stating in what manner, and at what times, the receipts, issues, and expenditures of the public monies were accounted for; and for considering of and reporting by what means and methods the public accounts might in future be passed, and the Accomptants compelled to pay the balances or monies due from them in a more expeditious, more effectual, and less expensive manner; and whereas the said Commissioners did inquire into and report upon the public accounts by the said Acts referred to their examination, and did discover and point out various abuses in many of the public offices entrusted with the receipt and expenditure of public money, and in particular in the office of the Treasurer of his Majesty's Navy; and did propose and recommend sundry good and wholesome provisions and regulations for the reformation of the same, and particularly for preventing the public money issued for navy services from coming into the possession and custody of the Treasurer of his Majesty's Navy, or the officers or persons employed under him; for depriving him and

and them of all opportunity of using and misapplying the public money to private purposes, and thereby exposing the same to the risk of loss; for making the Bank of England the sole place of deposit for the same; for removing, from thenceforward, all temptations and inducements to applications for more public money than was necessary for the public service; for preventing all unnecessary delay in passing the public accounts of the Treasurer of his Majesty's Navy, and in restoring to the public the balances remaining in his hands: and whereas the House of Commons having taken the reports of the said commissioners into consideration upon the 19th day of June, 1782, did (among other things) resolve, that some regulations ought to be adopted for the purpose of lessening and keeping down the balances which appeared to have usually been in the hands of the Treasurer of the Navy; and did further declare their opinion, that from thenceforward the Paymaster General of his Majesty's Land Forces, and the Treasurer of the Navy for the time being, should not apply any sum or sums of money imprested to them or either of them, to any purpose of advantage or interest to themselves, either directly or indirectly.

"And whereas, for the more effectually carrying into execution the said resolutions of the House of Commons, his Majesty, by warrant under his Royal Sign Manual, bearing date the 22d day June, 1782, was most graciously pleased to augment the income of the Right Honorable Isaac Barré, as Treasurer of his Majesty's Navy, and to add thereto the sum of 2,1501. that the said income might in future amount to 4,0001. which his Majesty was then graciously pleased to grant to the said Isaac Barré, clear of all deductions, in full satisfaction of all wages and fees and other profits and emoluments theretofore enjoyed by former Treasurers of his Majesty's Navy: and whereas by Letters Patent bearing date the 19th day of August, 1782, his Majesty was graciously pleased to give and grant unto the Right Honorable Henry Dundas, now Lord Viscount Melville, the office of Treasurer of his Majesty's Navy Royal and Ships, and Receiver General of all sums of money appointed, or from time to time to be appointed, and payable for the support, maintenance, and reparation of his Majesty's Navy Royal and Ships; for emptions and provisions appertaining to, and necessary for the said navy and ships, and for wages, salaries of officers, servants, and other persons whatever, belonging to the said Navy or Ships, or any other matter or thing whatsoever in any manner touching or concerning the Navy Royal or Ships; and for the exercise and occupation of the said office, and for and in satisfaction of all wages and fees of three-pence of lawful money for every pound to be received and paid by the said Henry Dundas, by virtue of his said office, his Majesty was further graciously pleased to give and grant unto him by the said Letters Patent, an annuity or yearly payment of 2,0001.

And whereas the said Henry Lord Viscount Melville represented, or caused to be represented, or it was represented to his Majesty, that the said annuity or yearly payment of 2,000l. after deducting all charges, taxes, and expences thereon, would not produce to him the said Henry Lord Viscount Melville more than the sum of 1,850l. in each year, or thereabouts; whereupon his Majetsy, by warrant under his Royal Sign Manual, bearing date the 23d day of October, 1782, was graciously pleased to declare that the income of the Treasurer of the Navy should be augmented with an additional allowance of 2,324l. 6s 6d. in order to make, together with the said sum of 1,850l. the said income to amount in future to the sum of 4.000l. And his Majesty did thereby direct, authorize, and empower the said Henry Lord Viscount Melville to take and apply out of such monies as were in, or should come to his hands, or to the hands of his cashier, arisen, or to arise by the sale of old naval stores, the said sum of 2,324l 6s. 6d. which, sogether with the before-mentioned sum of 1,850l. would make the said sum of 4,000l. which his Majesty was graciously pleased to grant him, clear of all deductions, in full satisfaction of all wages and fees, and other profits and emoluments theretofore enjoyed by former Treasurers of the Navy; the same to commence and be computed from the day of the date of the said letters patent, and to continue during his continuance in the said office: and his Majesty did further direct, authorize, and empower the said Henry Lord Viscount Melville, in case the said additional allowance of 2,324l. 6s. 6d. together with the said several allowances before stated, should not produce in each year the net sum of 4,000l. to charge the deficiency in the annual amount of monies disbursed by him for fees of divers natures: and whereas the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy, under the said letters patent, from the said 19th day of August, 1782, until the 10th day of April, 1783.

"And whereas by letters patent, bearing date the 5th day of January, 1784, his Majesty was graciously pleased again to give and grant unto the said Henry Lord Viscount Melville the said office of Treasurer of his Majesty's Navy, in the same terms as in the said former letters patent of the 19th day of August, 1782; and upon a similar representation made or caused to be made by the said Henry Lord Viscount Melville, or otherwise made to his Majesty as that hereinbefore stated, his Majesty was graciously pleased, by warrant under his Royal Sign Manual, bearing date the 16th day of January, 1784, to augment the income of the said office of Treasurer of the Navy with an additional allowance of 2,324l. 6s. 6d. in order to make the annual income of the said office amount to the said sum of 4,000l. and which said income his Majesty was thereby graciously pleased to grant to the said Henry Lord Viscount Melville, clear ofall deductions, in full satisfaction of all wages and fees, and other profits and emolu-

ments theretofore enjoyed by former Treasurers of the Navy, and to secure and provide for the due payment thereof in like manner as in the said former warrant of the 23d day of October, 1782, is provided:

"And whereas the said Henry Lord Viscount Melville, under and by virtue of the said last-mentioned letters patent, held and enjoyed the said office of Treasurer of his Majesty's Navy, from the said 5th day of January, 1784, until the 31st day of May, 1800:

"And whereas on the 17th day of February, 1785, the House of Commons ordered that leave should be given to bring in a bill for better regulating the office of the Treasurer of his Majesty's Navy, and that (together with other members of the said House of Commons) Mr. Henry Dundas, now Lord Viscount Melville, should prepare and bring in the same; and, in pursuance of the said order, the said Henry Lord Viscount Melville, on the 29th day of April, 1785, did present to the House of Commons a Bill for better regulating the office of the Treasurer of his Majesty's Navy; and the said Bill having passed the House of Commons, was, in pursuance of an order of that House carried by the said Henry Lord Viscount Melville to the House of Lords; to which Bill he (in the name of the House of Commons) desired the concurrence of their Lordships:

"And whereas the said Bill, in the 25th year of his Majesty's reign, passed into a law, intituled "An Act for better regulating the office of the Treasurer of his Majesty Navy;—The 1st, 3d, 4th, and 5th, Sections are as follow:

1st. Section, "Whereas it appears by the reports made by the commissioners appointed to examine, take, and state the public accounts of the kingdom, that regulations are necessary for better conducting the business in the department of the Treasurer of the Navy: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of July 1785, the Treasurer of his Majesty's Navy for the time being, in all Memorials to be by him presented to the Treasury for money for navy services, shall pray that such sum as he requires may be issued to the Governor and Company of the Bank of England on his account, and shall transmit with each Memorial a copy of the letter or letters from the Commissioners of the Navy, Victualling, and Sick and Hurt Boards, directing him to apply for such sum or sums; in which letter or letters the said Commissioners shall, and they are hereby required and directed to specify for what particular service or services the said money is wanted, and shall also state the balances then in the hands of the Treasurer of the Navy under each head of service respectively; and the Commissioners of his Majesty's Treasury for the time being, by their letter from time to time, shall direct

direct the Auditor of the Exchequer to issue to the Governor and Company of the Bank of England, on account of the Treasurer of his Majesty's Navy, naming such Treasurer for the time being, the sum for which such letter shall be drawn upon the unsatisfied order at the Exchequer, in favour of the said Treasurer, for which the receipt of the Cashier or Cashiers of the said Governor and Company shall be a sufficient discharge; and all sums for which letters of the Commissioners of his Majesty's Treasury shall be drawn, shall be issued to the Governor and Company of the Bank of England in like manner as they have been heretofore issued to the Treasurer of his Majesty's Navy; and all such monies to be issued to the Governor and Company of the Bank of England shall be placed on an account or accounts to be raised in the books of the Governor and Company of the said Bank of England, and to be intituled, 'The Account of the Treasurer of his Majesty's Navy,' inserting the name of such Treasurer for the time being, for the pay-branch, cashier's branch, and the victualling-branch, and on receipt of all such monies at the Exchequer, the Treasurer of the Navy shall immediately certify to the Commissioners of the Navy an account of the whole receipt under the respective heads of service, and shall also certify to the Commissioners of the Victualling and Sick and Hurt Boards, the particular sums received and applicable to those services respectively."

3d Section.—"And be it further enacted, that from and after the 1st day of July, 1785, no money for the service of the Navy shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed or directed to be placed in his hands or possession; but the same shall be issued and directed to be paid by the Governor and Company of the Bank of England, and to be placed to the accounts above-mentioned, according to the services for which it is craved and used.

4th Section.—"And be it enacted, that the Treasurer of his Majesty's Navy for the time being, by himself, or the person or persons in his office duly authorized by the said Treasurer, from and after the 1st day of July, 1785, shall draw upon the Governor and Company of the Bank of England for all navy services whatever, and shall specify in each and every draft the head of service for which the same is drawn; and no draft of the said Treasurer, or the person or persons authorized as aforesaid, shall be deemed a sufficient voucher to the said Governor and Company of the Bank of England, unless the same specifies the head of service for which it is drawn, and has been actually paid by the said Governor and Company of the Bank of England."

"5th Section.—"Provided always, that the monies to be issued unto the Governor and Company of the Bank of England, on account of the Treasurer of his Majesty's Navy, shall not be paid out of the Bank unless for navy services, and in pursuance of drafts to be drawn on the Governor and Company of the Bank

Bank of England, and signed by the Treasurer of his Majesty's Navy for the time being, or the person or persons authorised as aforesaid; in which drafts shall be specified the heads of service to which the sums therein mentioned are to be applied; and which drafts so drawn shall be sufficient authority to the Bank to pay such money to the persons mentioned in such drafts, or to the bearer of them."

"And whereas the provisions contained in the said last-mentioned Act of Parliament, were thereby directed to take place on the 1st day of July, 1785: But the execution of the said Act, with respect to the said Henry Lord Viscount Melville, opening an account or accounts with the Governor and company of the Bank of England, as thereby directed, was postponed by him until the 19th day of January, 1786, when the said Henry Lord Viscount Melville opened an account with the Governor and Company of the Bank of England, intituled, "Right Hon. Henry Dundas, Act of Parliament New Accoun;" and which said account was continued by him until he quitted the office on the 31st of May, 1800, and was the only account kept by the said Henry Lord Viscount Melville as Treasurer of his Majesty's Navy with the Governor and Company of the Bank of England, under and in pursuance of the said Act of Parliament for regulating his said office.

"And whereas on the 10th day of January, 1786, whilst the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy, he did constitute and appoint Alexander Trotter his Paymaster; and the said Henry Lord Viscount Melville did, on the said 10th day of January 1786, duly authorize and empower the said Alexander Trotter to draw on the Governor and Company of the Bank of England, for and upon the account of him the said Henry Lord Viscount Melville as Treasurer of his Majesty's Navy, all and every sum or sums of money that then were or should thereafter be wanted for the public services, under the care of payment of the said Henry Lord Viscount Melville, the said Alexander Trotter being particularly careful to specify in each and every draft the service for which the money should be drawn.

"And whereas it was the duty of the said Henry Lord Viscount Melville, during all the time he held and enjoyed the said office of Treasurer of his Majesty's Navy, to abstain from applying himself, and to prevent all persons acting under him from applying any part of the money issued from his Majesty's Exchequer for navy services to any purposes of advantage or interest to himself or themselves, either directly or indirectly, or to any other purposes than for naval services, and from deriving any profit or emolument therefrom: and from and after the passing of the said act of parliament of the 25th year of his Majesty's reign; for better regulating the office of the Treasurer of his Majesty's Navy, it was the duty of the said Henry Lord Viscount Melville, to observe and pursue the provisions and directions of the said act of parliament; yet the

said

said Henry Lord Viscount Melville, not satisfied with the ample revenue so provided for him as aforesaid, nor regarding the duty of his high and important office, or the express provisions of the said act of parliament, did, whilst he so held the said office, act and conduct himself fraudulently, corruptly, and illegally, in the several instances herein set forth.

"First Article.—That the said Henry Lord Viscount Melville, whilst he held and enjoyed the said office of Treasurer of his Majesty's Navy, and previous to the said 10th day of January 1786, did take and receive from and out of the money imprested to him as Treasurer of his Majesty's Navy, from his Majesty's Exchequer, the sum of 10,000*l.* or some other large sum or sums of money, and did fraudulently and illegally convert and apply the same to his own use, or to some other corrupt and illegal purposes, and to some other purposes than those of the public navy services of the kingdom, to which alone the same was lawfully applicable; and did continue such fraudulent and illegal conversion and application of the said sum or sums of money after the passing of the said act of parliament for the better regulating of the office of the Treasurer of his Majesty's Navy. And the said Henry Lord Viscount Melville has declared that he never would reveal the application of the said sum of 10,000*l.* and in particular he did make such declaration in the House of Commons, on the 11th of June, 1805: and then and there added, that he felt himself bound by motives of public duty, as well as private honour and personal convenience, to conceal the same; all which conduct of the said Henry Lord Viscount Melville was contrary to the duty of his said office, a breach of the high trust reposed in him, and a violation of the laws and statutes of this realm.

"2d. Art.—That the said Henry Lord Viscount Melville, disregarding the duties of the said office, and in breach and violation of the said act of parliament for better regulating the same, did, after the passing of the said act, and whilst the said Henry Lord Viscount Melville continued to hold and enjoy the said office, connive at, and permit and suffer the said Alexander Trotter, under and by virtue of the said authority so given to him by the said Henry Lord Viscount Melville as aforesaid, illegally to draw, receive, and take from the Governor and Company of the Bank of England, for other purposes than for immediate application to navy services, large sums of money from and out of the monies before then issued unto the said Governor and Company of the Bank of England, on account of the said Henry Lord Viscount Melville, as Treasurer of his Majesty's Navy: and the said Henry Lord Viscount Melville did connive at, and permit and suffer the said Alexander Trotter to place the said last-mentioned sums of money, or a great part thereof so illegally drawn, received, and taken by him from the Governor and Company of the Bank of England as aforesaid, in the hands of Messrs. Thomas Coutts and company, the private bankers of the said Alexander Trotter, in his own name, and subject to his sole

sole controul and disposition: all which conduct of the said Henry Lord Viscount Melville was contrary to the duty of his said office, a breach of the high trust reposed in him, and a violation of the laws and statutes of the realm.

"3d. Art.—That after the passing of the said act of parliament for better regulating the office of the Treasurer of his Majesty's Navy, and after the said 10th day of January, 1786, and whilst the said Henry Lord Viscount Melville held and enjoyed the said office, large sums of money were, from time to time, issued and paid to the Governor and Company of the Bank of England, and placed on an account raised in the books of the said Governor and Company with the said Henry Lord Viscount Melville, intituled, "Right Hon. Henry Dundas, Act of Parliament New Account:" And the said Alexander Trotter, under and by virtue of the said authority from the said Henry Lord Viscount Melville, did, from the said 10th day of January, 1786, during all the time the said Henry Lord Viscount Melville afterwards continued to hold and enjoy the said office of Treasurer of his Majesty's Navy, draw upon the said Governor and Company of the Bank of England for and on account of the monies so issued and paid to them, and placed to the said account so raised in their books, with the said Henry Lord Viscount Melville, as such Treasurer as aforesaid: and the said Alexander Trotter did receive and take large sums of money so drawn by him from the said Governor and Company of the Bank of England as aforesaid.

"That the said Henry Lord Viscount Melville did, after the said 10th day of January, 1786, fraudulently and illegally permit and suffer the said Alexander Trotter to place many of the said sums of money so drawn, received, and taken by him from the Governor and Company of the Bank of England as aforesaid, in the hands of Messrs. Thomas Coutts and Company, the private bankers of the said Alexander Trotter, in his own name and at his own disposal: and the said Alexander Trotter did thereupon, with the privity, by the connivance, and with the permission of the said Henry Lord Viscount Melville, apply and use the said last mentioned sums of money or great part thereof, for purposes of private advantage or interest, profit and emolument; and did place the said sums of money, or great part thereof, in the hands of the said Messrs. Coutts and Company, mixed with and undistinguished from the proper monies of the said Alexander Trotter, whereby the said last-mentioned sums of money were not only applied to and used for purposes of private advantage or interest, profit and emolument, and for purposes other than navy services, but were also exposed to great risk of loss, and were withdrawn from the controul and disposition of the Treasurer of His Majesty's Navy: and the said Henry Lord Viscount Melville, by so conniving at and permitting and suffering the public money to be withdrawn from the Bank of England, and used and applied in manner aforesaid, acted in breach of the great trust and confidence reposed in him, in violation of

the said act of parliament made for regulating his said office, contrary to his duty, and against the laws of this realm, and to the evil example of all persons entrusted in the great departments of the public service with controul over the application and expenditure of the public money.

"4th Art. That after the said 10th day of January, 1786, and whilst the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy, he the said Henry Lord Viscount Melville did fraudulently and illegally, for the purpose of advantage or interest to himself, or for acquiring or obtaining profit or emolument therefrom, or for some other corrupt and illegal purposes, and for purposes other than navy services, take and receive from the public money placed in his name at the Bank of England, as Treasurer of his Majesty's Navy, the sum of 10,000*l.* or some other large sum or sums of money, and did fraudulently and illegally convert and apply the same to his own use, or to some other corrupt and illegal purposes.

"That during the time the said Alexander Trotter held and enjoyed the said office of Paymaster to the said Henry Lord Viscount Melville as aforesaid, and whilst the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy as aforesaid, he the said Alexander Trotter kept with the said Henry Lord Viscount Melville an account current, entered in certain books of account, containing entries of all the sums paid and received by the said Alexander Trotter on the account of the said Henry Lord Viscount Melville, and by agreement between the said Henry Lord Viscount Melville and the said Alexander Trotter, bearing date the 18th and 23d days of February, 1803, it is stated that they had either mutually delivered up to each other, or resolved and agreed mutually to cancel or destroy all the vouchers or other memorandums and writings that at any time theretofore might have existed, passed, or been interchanged between them relative to the said accounts, and the different items and articles of which the said accounts were composed or consisted; and the said books of account containing the said account current, together with all vouchers or other memorandums and writings in the possession of the said Alexander Trotter, and also of the said Henry Lord Viscount Melville relative thereto, were burnt and destroyed by the said Henry Lord Viscount Melville and Alexander Trotter: and the said stipulation contained in the said agreement for the said Henry Lord Viscount Melville and Alexander Trotter mutually delivering up to each other, or for mutually cancelling and destroying all the said vouchers or other memorandums or writings relative to the said account, was so entered into; and the said books of accounts, vouchers, memorandums, and writings, were so burnt and destroyed, with a view to conceal and prevent the discovery of the several advances of money made by the said Alexander Trotter to the said Henry Lord Viscount Melville, and of the several accounts or considerations for, or upon which the same were

so advanced: all which conduct of the said Henry Lord Viscount Melville was contrary to the duty of his said office, a breach of the high trust reposed in him, and a violation of the laws and statutes of this realm, and to the like evil example as aforesaid.

"5th Art. That after the said 10th day of January, 1786, and whilst the said Alexander Trotter so continued the Paymaster of the said Henry Lord Viscount Melville as aforesaid, and with such privity, connivance, and permission as aforesaid, so applied and used the said sums of money, or great part thereof, for purposes of private advantage, profit, and emolument, as aforesaid, the said Henry Lord Viscount Melville fraudulently concealing the illegal use and application of the same, did procure, obtain, and receive from the said Alexander Trotter, advances of several large sums of money, which were made to him the said Henry Lord Viscount Melville by the said Alexander Trotter, in part from money so as aforesaid illegally drawn by him the said Alexander Trotter from the Governor and Company of the Bank of England, and in part from sums of money so placed by the said Alexander Trotter in the hands of the said Messrs. Coutts and Company as aforesaid, when mixed with and undistinguished from the proper monies of the said Alexander Trotter: and for the purpose of more effectually concealing the said advances of money, the said books of account, vouchers, memorandums, and writings, were so as aforesaid burnt and destroyed.

"6th Art. That among other advances of money so as aforesaid obtained and received by the said Henry Lord Viscount Melville, from the said Alexander Trotter, the said Henry Lord Viscount Melville did procure, obtain, and receive from the said Alexander Trotter, the sum of 22,000*l.* or some other large sum or sums of money, advanced by the said Alexander Trotter to the said Henry Lord Viscount Melville, without interest; part whereof was so advanced exclusively from public money so as aforesaid illegally drawn from the Governor and Company of the Bank of England by the said Alexander Trotter; and other part whereof was advanced from the said mixed fund, composed as well of public money so as aforesaid illegally drawn by the said Alexander Trotter from the Governor and Company of the Bank of England, and placed by him in the hands of the said Messrs. Coutts and Company as aforesaid, as of the proper monies of the said Alexander Trotter in the hands of the said Messrs. Coutts and Company, which had been mixed therewith, and remained undistinguished therefrom; and for the purpose of more effectually concealing the said advances of money, the said books of account, vouchers, memorandums, and writings were so as aforesaid burnt and destroyed.

"7th Art. That amongst other advances of money so as aforesaid obtained and received by the said Henry Lord Viscount Melville from the said Alexander Trotter, the said Henry Lord Viscount Melville did obtain and receive a sum of 22,000*l.* or some other large sum or sums of money advanced to him by the said Alexan-

der Trotter, and for which it has been alledged by the said Henry Lord Viscount Melville, that he was to pay interest: and for the purpose of more effectually concealing the said last-mentioned advances of money, the said books of accounts, vouchers, memorandums, and writings, were so as aforesaid burnt and destroyed.

"8th Art. That during all or great part of the time the said Alexander Trotter held and enjoyed the said office of Paymaster to the said Henry Lord Viscount Melville as aforesaid, and the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy as aforesaid, he the said Alexander Trotter did gratuitously, and without salary or other pecuniary compensation, act in and transact the private business of the said Henry Lord Viscount Melville, as his agent, and was from time to time in advance for the said Henry Lord Viscount Melville in that respect, to the amount of from 10,000*l.* to 20,000*l.* or to some other great amount: and which advances were taken from the said sums of money so placed by the said Alexander Trotter in the hands of the said Messrs. Coutts and Company, consisting in part of public money, drawn by him from the Governor and Company of the Bank of England as aforesaid, and in part of his own private monies mixed therewith, and undistinguished therefrom as aforesaid; by means whereof the said Henry Lord Viscount Melville did derive benefit and advantage from the aforesaid illegal acts of the said Alexander Trotter.

"9th Art. And the said Alexander Trotter did so gratuitously, and without salary, act in and transact the private business of the said Henry Lord Viscount Melville, and make him such advances of money as aforesaid, in consideration of the said Henry Lord Viscount Melville conniving at and permitting and suffering the said Alexander Trotter so as aforesaid to apply and make use of the said sums of public money so drawn by him from the Bank of England, and applied and appropriated for purposes of private advantage, or interest, profit and emolument as aforesaid: and the said Alexander Trotter would not have been, and was well known to the said Henry Lord Viscount Melville not to have been able to make such advances of money to the said Henry Lord Viscount Melville as aforesaid, otherwise than from and by means of the said sums of public money so drawn by the said Alexander Trotter from the Bank of England, with the privity, connivance, and permission of the said Henry Lord Viscount Melville as aforesaid, and applied by the said Alexander Trotter for purposes of private advantage, interest, profit, and emolument. All which proceedings and conduct of the said Henry Lord Viscount Melville were contrary to the duty of his said office, in breach of the great trust reposed in him, and in gross violation of the laws and statutes of this realm. And by all and every one of the aforesaid acts done and committed by him the said Henry Lord Viscount Melville, he was and is guilty of high crimes and misdemeanors.

"10th Art. That Henry Lord Viscount Melville, after his Majesty

jesty had, by Letters Patent, bearing date the 19th day of August, 1782, given and granted unto him the office of Treasurer of his Majesty's Navy, did on divers days and times between that day and the 5th day of January, 1784, and also on divers days and times between the said 5th day of January, 1784, and the 1st day of January, 1786, take and receive, from and out of the monies from time to time issued or paid to him, as Treasurer, or as Ex-Treasurer of his Majesty's Navy, from his Majesty's Exchequer, or some other sources, for naval services, divers large sums of money, amounting together to a large sum, to wit, 27.000*l.* or thereabouts; and did fraudulently and illegally convert and apply the same to his own use, or to some other corrupt and illegal purposes, and to other purposes than those of the public naval services of the kingdom, to which alone the same was lawfully applicable; and did continue the said fraudulent and illegal conversion and application of divers of the said sums of money, after the passing of the act of parliament for the better regulating the office of Treasurer of his Majesty's Navy.

The Lord Chancellor now quitting the wool-sack beneath the steps of the throne, advanced to the centre of the Hall, and when he was seated the honorable Manager, to whom the opening of the case was committed, addressed the Court to the following effect.

MR. WHITBREAD.

" MY LORDS,

" I PRESENT myself before you in support of the charges which have been now exhibited against Lord Viscount Melville. The course which has been adopted on this serious occasion, has appeared to the managers of the House of Commons, the most discreet and convenient, and I confidently expect that upon them will rest no imputation. Yet I fear, my lords, that in what I have now to submit to your attention, it will be necessary for me to enter into a prolix, and fatiguing detail—into a long narrative of facts, which even from their notoriety is rendered more unpleasing. Yet I will not offend you, my lords, by imploring your patience while I proceed through this detail, because the exercise of this temper is absolutely necessary to public justice, and I am now pleading before one of the most august and venerable tribunals by which justice can be administered."

" Neither will I, my lords, occupy your time by making any apologies for my own deficiencies; at least, it will be my endeavour to be perspicuous in the facts I adduce before your lordships; not that I am sensible of any peculiar difficulty attending the situation in which I stand; but when I look back to the history of our country, and recollect the extraordinary talents with which those persons have been endowed who have appeared before you on similar circumstances, if I am not grievously oppressed, I am most seriously impressed with the awfulness of that situation; and, above all, when I advert to the known ability, and to the great legal knowledge of those, who are engaged as counsel for the noble defendant. This feeling is not at all diminished when I consider the peculiar acquirements of the gentlemen who have undertaken this duty; for it does so happen, that however rare the occasion, they have both of them been engaged in a trial of this kind, the one for a person charged with high crimes and misdemeanours, the other in the prosecution of the real or supposed delinquent.

" If, my lords, there exist any thing like energy in my

mind, this is the precise situation, and these the precise circumstances which are calculated to call it forth; and while I exert myself to the utmost of my moderate abilities in this prosecution, I feel some gratification in thinking, that my endeavours will be encountered by persons amply qualified to resist them if they have the sanction of a good cause. But, whatever may be their confidence, giving way to the unsophisticated emotions of my own mind, I frankly confess, that when I look back to the memorable day when this trial was proposed, I am proud of that day, and I consider it a day glorious to my country. We have also reason to be satisfied with the mode appointed for the trial, because this is the court by which the noble viscount himself, or at least those who were known to be his best friends, wished that his fate might be determined.

" I rejoice, my lords, in the splendour of this august assembly, and I console myself even in the strength by which the noble viscount is supported, because I know, that if it be my duty, and the duty of my more able coadjutors to maintain the charge, every mistake we commit will be corrected, and by the ingenuity of our opponents, will be converted into an argument against ourselves.

" I have, my lords, another subject of gratification, and, it is, because I am confident you will give every fair advantage to the defendant, who is at least entitled to your justice, if not to your compassion. In the course of this prosecution, whatever ardour I may feel from my disposition to support the charges solemnly brought by the Commons of Great Britain, I hope I shall not be betrayed into any intemperance of expression, and I trust I may be believed, when I say, that I am not less anxious to avoid wounding the feelings of the defendant, than I am solicitous to maintain the charges brought against him.

" If, indeed, the noble defendant be guilty, he was perfectly acquainted with the nature of his crime and the extent of his offence; and he is doubly guilty because, he affected to reform those abuses of which he was himself the author.

" What appears in the preamble of the articles of impeachment,

peachment, presented by the Commons, is in the form of propositions which are, in themselves, almost self-evident. It acquaints your lordships that the office of Treasurer of the Navy, is one of great national importance, and that it ought to be truly and faithfully administered; and I need not inform your lordships that it is essential to the well-being of the state, that all the high offices connected with the government of the country should be so administered; yet, if there be a particular situation, distinguishable from the rest of which the duties are more necessary to be regarded than every other, it is those functions which the Treasurer of the Navy is appointed to discharge.

"It will perhaps be expedient, that I should enter a little into the history of this establishment.

"The office was created in the beginning of the century before the last, and there was subsequently a fixed salary assigned to be taken in lieu of all fees whatever, and the consequence of this arrangement was, that the floating monies incident to the office should be passed through to the hands of the treasurer, as a sort of nominal banker, and should not be considered at all as a matter of account.

At the close of the year 1784, when the public expenditure had risen to an enormous amount, we find a commission of accounts was in existence to ascertain the mode and the circumstances of this extensive application of the property of the state. The duty of this commission was to determine what, in this excess of prodigality, was right to be done, and what balances of this property it would be right to call in. These commissioners, (one of whom is now in the box, and is my fellow-manager on this occasion) executed the trust reposed in them with great diligence, and among the variety of reports which appeared in discharge of this duty, they made a special report on the office of Treasurer of the Navy. The steps they took deserve your particular attention. They stated the balances in the hands of the ex-treasurer, and they directed certain regulations, that no such balances should be so retained in future; under the strong recommendation from this respectable authority, several resolutions were entered into by the House of Commons, with which I must trouble your lordships.

" On the 19th of June, 1782, it was declared to be the opinion of the commissioners, that means should be taken, in order to prevent the balances continuing in the hands of the Treasurer of the Navy, and for this purpose, it was proposed, that an additional remuneration should be allowed in the way of salary in lieu of all fees, gratuities, and other emoluments whatsoever; and in the same spirit it was particularly specified, that this officer should not apply any sums of money devolving to him from his station, so as to derive advantage or interest therefrom, either directly or indirectly.

" I contend, my lords, that from that moment a new æra commenced, and that the person who should make any advantage or interest either directly or indirectly from such funds, was impeachable at the bar, of the House. At that time, my lords, Colonel Barré (to whom the country is so largely indebted), held this important office. Under these representations, the salary in his time was encreased to the sum of 4000l. per annum, and it is highly probable that he never did before, and he certainly never did afterwards, make the slightest advantage of the public money deposited in his hands. It was the invariable practice of Mr. Barré, to deposit the money of his office in the Bank of England; after this regulation, it is true, that he was not bound to make use of the same depository, but he was pledged to make no advantage of it.

Mr. Barré was not peculiar in selecting the Bank for the security of the funds, for although treasurers before his time had made use of the public monies, yet in the Bank the account had been constantly kept, and in the long and laborious examination I have had occasion to make, I have not seen a single instance when a treasurer of the navy lent any part of these funds to private persons excepting the defendant, even before the passing of the memorable act, by which all misapplication of these effects was designed to be prevented.

" When Mr. Barré occupied this situation, the political life of the noble defendant had already run a course of some years, and he was attached to the cause of Lord Guilford, so long a prime minister, to the end of the history of that nobleman. His character then for talents and

and eloquence, was beginning to rise into notice, and for personal and political purity, he was unimpeachable. Happy had it been for him if he had preserved this fair reputation, and if he had been bound by the same ties of honour which restricted Colonel Barré, so that he had not made use of the public money to his interest and advantage!

At the time Lord Melville (then Mr. Dundas) came into office, he appointed Mr. Douglas to be his paymaster; a gentleman who had held that situation under several treasurers of the Navy, for the term, I believe, of eighteen years. Lord Melville was not ignorant of the character of Mr. Douglas; he had before entertained so good an opinion of this person, that he took pains to recommend him to Colonel Barré as his paymaster.

"Now, my lords, the first article of charge against the noble defendant, is, that when Mr. Douglas was paymaster, and previous to the act to which I have referred, he did, in manifest breach of his duty, possess himself of certain sums of money, and apply them to his own purposes.

"I must now beg your lordship's attention to the circumstances in which the House of Commons stood at the time when these charges were framed.

"The evidence is sparingly supplied. At first, when the charges were made, we were far from having the whole of the evidence referrable to them. We were not only embarrassed by the obscurity by which the subject at all times must be necessarily attended, but we had another serious difficulty from the lapse of time; for no less a period than twenty years has passed over, since some of these offences were committed, and many of the persons who were concerned in the transactions, have been long since dead. Besides these opposing circumstances, much of the written evidence has been purposely destroyed, a part of the remaining materials has been accidentally lost, and we are driven, as to many essential particulars, to resort to a few living witnesses, in order to establish the guilt of the person we accuse.

"Yet, my lords, we hope we have surmounted these obstacles, and we trust we shall convince your minds, in a manner that shall relieve you from the possibility of

doubt. We shall first prepare you by the more circuitous course, of evidence, and then, by what is plain, open, distinct, and familiar; and if your lordships will condescend to accompany us, we will lead you to an eminence from which you will survey the whole guilt of the defendant.

" But, my lords, if we are enabled conquer this host of opposition, we cannot so easily vanquish our own feelings in this painful task: yet, whatever may be these sensations, we must resign them to the loud call of public duty, by which we are summoned before this august tribunal.

" Would it be believed, that under the complication of proof to which I have referred, this noble defendant, in a moment of forgetfulness, wrote a letter to the Commissioners of Naval Enquiry, which letter contains a denial of any advantage he derived from the public money in his hands, in the time of his paymaster, Douglas? It is perhaps still more incredible, that since the defendant has been elevated to the dignity he claims by the favour of his sovereign, he has positively declared, that he never did subscribe his name to such an assertion. Seeing then, that such matters are to be disclosed before your lordships, is it not, indeed, a painful duty we have to execute; which nothing but the paramount claim of our country could constrain us to discharge. My lords, I charge Lord Melville, not only with taking the public monies, but of availing himself of these sacred funds for his own private emolument; and I am now adverting to the first charge, which respects a sum stated of 10,000l.

My lords, in considering this item, it is necessary you should take into your consideration the tenth, or last article of the charge; because, this sum is involved in an amount of 27,000l. there noticed." How will you expect that the managers on the part of the Commons will support this heavy charge? It is by no less than a positive avowal of the defendant himself, that he did make the use of it to which I have adverted, and that distinctly in my own hearing.

" The defendant said, and kept his word as nearly as he could, after the delaration that he would divulge to what purpose the sum of 10,000l was applied. I affirm,

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my lords, that this alone, unassisted by any extraneous circumstances, was an impeachable offence. Neither he nor any man in England has a right to place himself above the law. But although he will not tell you how he has applied this money, he says he has given it a direction conducive to your benefit. Are we, my lords, to be satisfied with this naked declaration?

"We might have been obliged to enter into a tedious and elaborate proof respecting this 10,000l. but I have the satisfaction to say, that within these few hours a circumstance has come to my knowledge which may render the facts of much easier access. While we have been seeking in all directions, the learned counsel for the defendant have been enbabled to take a short cut to the discovery, and we will endeavour to take advantage of it, to remove all the uncertainty, in an instant. I know that within the last two or three days the receipt for this very 10,000l. was actually in the possession of these learned gentlemen.

"Is this then the item of 10,000l. which constitutes so considerable a part of this grave accusation? If it be so, I hope the noble defendant will be influenced by different motives than those by which I conceive he has been before actuated; and that neither his view of public duty, or private honour, will prevent his producing before us a paper which contains all that is material in the transaction.

"As to public duty from a disinclination to expose concerns of a public nature, all the argument that could be supplied from this source is gone by, because the affair is so remote, that no inconvenience whatever can arise from the disclosure. As little ground is there for declining to make this exposition from the sentiment of private honour. The names of the persons who appear upon the receipt were those of men engaged in extensive speculations, but whose unfortunate adventures have led to the exposure of the whole of their transactions by a public bankruptcy. As little available would be the objection on the ground of public convenience; but it will be a most important private convenience to the defendant, if his counsel can produce this remarkable paper to exonerate Lord Melville from the charge under which he

labours

labours: and if, my lords, neither public duty, private honour, or public convenience, should prevent the production of this paper, what other reason can possibly be suggested for its suppression?

"I charge the noble defendant not only with having possessed himself of this 10,000l. but that he continued afterwards directing and restricting its application; and this he confessed to a person whose name has been often mentioned, I mean Mr. Trotter. That he was still in possession of this money after he had resumed the office of Treasurer of the Navy in 1786, I will prove by his confession, through the means of his agent. In 1786, he said that he had this sum of 10,000l. in small fractions, taken out in a variety of amounts, and no portion of these did he apply to the public service. I will also shew you the only 10,000l. which he did take out of the office at one time is that precise sum; and not only that this was not applied to the public service, but that he had no pretence or shadow for extracting it for such service, no more than he could have now, of the balances in the bank, and applying them to electioneering projects, or any other sinister purposes.

"But to descend to a few more particulars. On the 19th of August, 1782, the Right Honourable Henry Dundas was first appointed to the office of Treasurer of the Navy, and as early as the 20th of August, the very next day, before the seat was warmed by the new incumbent, the sum of 10,000l. was paid into a banking-house for account of the new treasurer. My lords, it will be clearly in evidence before you, that Mr. Douglas was the paymaster nominated by Mr. Dundas, that every act he did was under the sanction of the defendant, and that both at this time, and at subsequent periods, he was responsible for the acts of Mr. Douglas.

"I do not pretend to shew that this sum of 10,000l. constituted any part of the public money, but I notice the transaction to expose before you the first connection between these two men.

"Early in November a payment of a very different description was made on behalf of the defendant. The paymaster of the navy was in the habit of going to the exchequer, and upon presenting his warrant, the sum of

money

money he required was delivered to him in the form in which he chose to take it; either by a credit in the bank-books, or in bank-notes. On the 6th of November, 1782, Mr. Douglas had a payment to receive at the Exchequer to the amount of 45,000l. This gentleman elected to have 40,000l. in the bank books, and the rest in bank notes. This transaction, in the general nature of it, was such as had often taken place before, and Mr. Douglas himself had frequently taken up money in this way; but as far as we have been able to trace the accounts, every sum so extracted was uniformly of the amount of 2000l. which was set apart for the payment of Exchequer fees. But what Mr. Douglas so drew out on this occasion, was not, as formerly, carried to the public account. This properly might have been taken to a place of safe custody, I mean the iron chest of the office, which was provided for the reception of money in this form; and in the memory of men in the Navy Pay-office still living, this chest was used expressly for this purpose, and the money was transferred from it to waggons and other conveyances, to take it to the out-ports to answer various public demands. But at the date to which we are referring, this chest was diverted from the fit purpose, and was applied to the floating securities of the Treasurer of the Navy, collected for his own profit; yet this public chest, being a necessary part of the constitution of the office, ought to have been reserved for the public effects, and a national account ought to have been opened with this iron chest; and such account was actually continued by Mr. Douglas down to the period of 1782, and in it appeared an item of 10,000l. which was passed to the name of Mr. Jellicoe.

"When the 5,000l. was first put into the iron chest, a bank note of 1,000l. which constituted part of the sum, found its way immediately into the hands of the Treasurer of the Navy, and was paid by him to his private account at Messrs. Drummonds, from whom he then took up 4000l. leaving 600l. in the hands of those bankers. That bank note, my Lords, I have now in my hand, the very note which was so carried to that account.

"Lord Melville may say, that the house of Messrs. Drummonds was a place where he might deposit money

without offence or crime. Yes, my Lords, and so he might; the produce of his estates, the income of his private fortune from whatever source it might be derived, but he could not deposit there, without offence or crime, the public money.

" I will shew, my Lords, the state of his account with that house; what he paid in, what he drew out, and that when he overdrew his account, Messrs. Drummonds, regularly as they ought to do, paying a proper attention to their own concerns, charged him with interest for such over-payments.

" This, my Lords, was in November 1782. In the month of December the same year; the very year in which he was appointed to this sphere of public duty, (I beg your attention to this, my Lords,) another sum was drawn out of the Exchequer by Mr. Douglas, exactly in the same form, and other notes of 1,000l. were in like manner taken to Messrs. Drummonds. One of these notes went to Mr. Jellicoe for a private debt of Lord Melville's, and it was paid into the house of Messrs. Moffat's in discharge of a bill drawn by him from Edinburgh.

" If we can satisfy your Lordships of the accuracy of this representation, you will not for a moment doubt that this money at least was not applied to the public purposes, to which it ought to have been devoted.

" Again, between August, 1782, and the 18th of April 1783, sums were obtained in the same way, by Mr. Douglas, and notes or cash were carried to the chest account, to the amount of 16,000l. only 3,000l. of which found its way into any official book, and to this extent alone was any thing paid out of that large amount for any official purpose whatever. I have shewn then, that two sums of 1,000l. have been identified, and we have the bank notes here before us. I have likewise said, that 13,000l. was wholly unaccounted for, and I may add, that the 3,000l. applied to official purposes, was paid to Mr. Jellicoe.

" If one part of the papers connected with these transactions are thus shewn to be in the hands of the defendant, it is natural to suppose that he is likewise in possession of the rest; the production of these will ren-

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der all the transactions intelligible; and I sincerely hope they will be surrendered.

"After these affairs, another political revolution took place, and the noble Lord no longer occupied the station in which he had been placed. On the 10th of April he ceased to be the Treasurer of the Navy, and when he thus went out of office, he was debtor to the public in the sum of 13,000l. But on the 14th of April, four days after his removal, Mr. Douglas drew out to the order of Mr. Jellicoe, 10,000l. of which Lord Melville possessed himself. I have heard his Lordship say, that at the time he was Treasurer of the Navy, a confidential connection subsisted, which made the secret application of money necessary, and he would not disclose, even to his colleagues in office to what purpose he had applied it. The natural enquiries are, to whom did he pay, or what became of this amount?

"At that time there was in existence, a commercial house of the highest reputation, trading under the firm of Muir and Atkinson. The house had a close connection with government; Mr. Atkinson was well known, and was particularly known to the defendant. He had long prior to this time ceased to be a government contractor, and although this intercourse had terminated, yet Mr. Atkinson was accommodated with the sum of 10,000l. by the Treasurer of the Navy.

"Was this a place of safe deposit for the public monies? Was the house of Mr. Atkinson under such circumstances of embarrassment, as to make this loan peculiarly desirable at that time? But in proportion to the solicitude of this gentleman to obtain it, was the danger to which the public would be exposed by the loan. My Lords, the motive will be shewn to you, why this 10,000l. was confided into such hands, and I will not insult your understandings by repeating the question, why the public money was so applied; but to unravel the mystery attending this transaction, it will be worth your while to enquire, for what object of private advantage the sacred funds of the state were profusely poured into this channel.

"My Lords, we have the account with this Mr. Atkinson, and we find, that the item of 10,000l. forms only one, among numerous other amounts between that house

and Lord Melville, and some of these will be substantiated before you by authentic papers.

" We must now come to that period of the accounts, when Lord Melville went out of office. Then it was, that difficulties arose in making up his accounts, and he was found a debtor 13,000l. on one account already referred to; 10,000l. on the other, to which I have just adverted. Of this large balance, ascending to the sum of 23,000l. 1,000l. was paid by a person who was in the habit of defraying small sums for the noble defendant.

" My Lords, I must pause for a moment in this detail, to express my feelings on the occasion, and confess there is nothing more painful to me, than to expose the knowledge I have necessarily attained of the private affairs of the noble defendant. Unfortunately, his personal concerns are so intimately blended with the public accounts, as to make it absolutely necessary that I should notice them somewhat in detail, and I hope in this respect you will excuse my performing what the strict execution of my duty absolutely requires."

(The honorable manager here entered into some particulars of the private account of the defendant, and then proceeded.)

" The debt, with the abatement of this 1,000l. was reduced to the sum of 22,000l. and in July, 1783, a serious difficulty arose in the office. A demand was made for 10,000l. and no money was to be produced to satisfy it; 3,000l. only was in the coffers to be applied to this payment, Lord Melville being all this time a debtor to the establishment. Subsequently, 1.000l. more was paid, then 6000l. and by a series of instalments, the debt was reduced to 7,600l. and in this situation it stood, when the Right Honorable Henry Dundas again became the Treasurer of the Navy; for in January, 1784, another memorable political revolution took place, and the defendant appeared again in his former capacity.

" What did the now treasurer do to satisfy this balance of 7,600l. on his re-admission into this high office? He took up drafts to the amount of 2,000l. and the second was on the 25th of May, 1785, a day most memorable in the history of the noble lord. On that day appeared the

bill

bill for the better regulating the office of his Majesty's Treasurer of the Navy, and yet, at that very time, he took up a considerable sum from the public monies, and paid it into the hands of his bankers, for his own private advantage.

" My lords, what is the natural reflection which occurs to the mind on the pressure of these facts? They are not only truths which I assert, but which I shall establish on the most satisfactory evidence.

" With the sums thus taken up, the Right Honourable Henry Dundas became a debtor to the state in 11,600l. and this fact will be placed beyond the possibility of doubt. In order to effect the reduction of his debt, he directed an amount to be applied from the produce of his own salary, which lessened it to 10,300l. Mr. Douglas died in the year 1784, and such was the public claim at the time of his decease. All the public accounts at the Bank, and all the private accounts connected with these transactions, confirm the result I have stated, and whatever mercenary motive may induce living witnesses to deceive you, no such temptations can operate upon this silent, but irresistible testimony.

" How did the noble defendant act on the occasion of the death of Mr. Douglas? Did he pretend that the public had no claim upon him, and did he call upon the executors of that gentleman to make good the deficiency? Did he, after the examination of the accounts of the deceased, charge the balance upon his representatives? No, my lords, he took a very different course. Mr. Dundas acknowledged the balance due in the presence of the son and executor of Mr. Douglas, and he confessed the whole progress and formation of that balance, amounting to 10,300l. and no ground remains to him on which he can erect his defence.

" My lords, the memory of Mr. Douglas requires no tenderness of feeling, his character is unimpeached and unimpeachable: he was a pure, honest, and conscientious servant of the public, and I have the testimony of Lord Melville in his favour, not only in the recommendation the defendant gave to Colonel Barré, but in the subsequent confidence reposed in this upright officer by Lord Melville himself. ' You have done,' said Mr. Dundas

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to Mr. Barre, ' the only thing I can most recommend, by appointing Mr. Douglas paymaster.'

" Can the defendant, after these proofs of his approbation, impute any thing dishonourable to Mr. Douglas; and if he should venture to do so, will his assertions receive any credence from your lordships. If I can satisfactorily prove the facts I have now disclosed, the first and the tenth articles of these charges will be completely established.

" My Lords, I wish to conceal nothing which can tend to shew any meritorious conduct in this unfortunate nobleman. I wish to attribute no blame, where it is not deserved, and hence it is, that with peculiar satisfaction I state to you, that, during the time that Lord Melville was Treasurer of the Navy, several most beneficial regulations took place in his office, and several acts were passed for the protection and defence of those who were before unprotected and defenceless. The widows and orphans of those gallant sons of the empire, who were fighting the battles of their country, were the objects of his peculiar care, and a number of lives were preserved by his prudent and generous interposition. However detestable the crime may be, it had been a common practice to forge the wills of those who fell in defence of the state, and this atrocious conduct, and its pernicious consequences, have been in a great degree prevented by the salutary plans recommended by the defendant, for which he deserves the thanks of the British people; and in justice to Mr. Trotter I must admit, and not only admit, but gladly proclaim, that he, when Paymaster of the Navy, was eminently useful in assisting the Treasurer in these beneficent designs.

The name of Mr. Trotter has often been mentioned, and hardly less often in a way unfavorable to his reputation; but the truth is, that in early life he appears to have conducted himself with credit and honor, and excepting in his situation as Paymaster of the Navy, there is no imputation against him with which I am acquainted; and I have heard the honorable defendant candidly and manfully declare much in his favor. Mr. Trotter is a person who will give your Lordships most material information on the subject of these transactions. The affairs of this

gentleman

gentleman are so intimately blended with those of Lord Melville, that no human being excepting Trotter or the defendant himself could unravel the concerns; and your Lordships well know, that it was proposed to indemnify the former from any civil consequences from his own evidence, that he might be made a witness on this important occasion. Under all the circumstances of difficulty with which this testimony is attended, it is a fortunate thing for us, that what Mr. Trotter will have to depose, will be so fully confirmed by books and documents, as to leave no doubt on your Lordships' minds; and, indeed, there is no one particular to which he will give testimony, which will not be so confirmed. This is most fortunate, not only for us, but most fortunate for the country, and most fortunate for Mr. Trotter. At the time to which I have alluded, the act which has been mentioned was passed, and I myself have heard the noble defendant say, that he was yet to learn in what he had offended against this law?

"My Lords, there have been difficulties on numerous occasions, attending the interpretation of acts of parliament: the Act of Succession, the Bill of Rights, Magna Charta itself, nay, even that sacred law, which has been inscribed on the tablets of heaven, and the plain mandate, "Thou shalt not steal," has received a double construction; but I undertake to shew, that Lord Melville could not possibly mistake the meaning of the statute which he has so grossly, so flagrantly, and so notoriously violated. My Lords, who was to carry into execution this act of parliament of Great Britain? It was Lord Melville. It was he that proposed it, he that prepared it, and by his authority it was conducted through all its stages in the House of Commons. He knew, not only the letter, but the spirit of the law. Had I been now conducting a similar charge against the successor of the noble Lord, I should have much less to say in support of the accusation, because, he might have pleaded ignorance with some appearance of truth, although, in a strict sense, the ignorance of the law, does not excuse any in the breach of it. I am, my Lords, referring to a celebrated saying of that powerful European potentate, Philip the Second, that when we enquire into the construction

struction of this statute, I should recommend similar means with the change merely of the name "Let us consult the genius of Melville."

(The honorable manager here made some allusions to the minstrels of the country of the noble defendant, to shew the spirit by which this parliamentary regulation was dictated, and then proceeded.)

"What were the words of the act? What was its design? If at the time it was passed you had enquired of the noble defendant, what would have been his answer? He would have told you, that it was to prevent all future misapplication of the public money, by himself, and every other person occupying the station to which he was appointed. My Lords, read the statute, and listen to its clauses. Is there a man in England who can doubt of the intention of it? Can the learned counsel for the defendant, or even can the most simple man, doubt for an instant the tendency and meaning of it? My Lords, I throw down the gauntlet, and defy all the ingenuity of those able advocates of the defendant, to give more than one interpretation to it, and it is this; that from the moment it became operative, Lord Melville was bound to pay the money devolving to him in his office to the Bank of England; and further, he was bound to pay it wholly and exclusively for the navy services. What did he do? He himself acknowledges, that he suffered his Paymaster to devote it to another purpose; and we contend, that what he did by his Paymaster, he did himself. But to look a little more attentively at the statute, the act says, that, 'No money for the service of the navy shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed, or directed to be placed in his hands or possession; but the same shall be issued, and directed to be paid to the Governor and Company of the Bank of England.' In the fourth section, it proceeds to enact, that 'the Treasurer shall draw upon the Governor and Company of the Bank of England for all navy services whatever, and shall specify in each and every draft, the head of service for which the same is drawn.'

"I beg your attention to one inference from this regulation: the money was to be paid by an accountant,

but

but was not to come into the hands of the Treasurer. How then was it, your Lordships will enquire, that the noble defendant could get the money into his own hands? A short explanation of the nature of the accounts will shew how this was possible. There are three distinctions of payments to which the duty of the Treasurer of the Navy extends; and they are called, the pay branch, the victualling branch, and the navy branch. It so happens, that upon the two latter, specific limited assignments must be made for every farthing; but, upon the former, such assignments are made for a part, but not for the whole; but this will be explained more minutely presently.

"Thus, it appears, that it is the duty of the Treasurer to pay the money into the Bank, and he is not allowed to take it out of this treasury, either directly, or indirectly, without pointing out the immediate service to which the payment to be made is applicable: and if he gives a draft without expressing the service, the law is infringed. I have heard the defendant make a sort of difference between these assignments, and the assigned balances; and if such a distinction were to prevail, the statute would become utterly nugatory, and an absolute controul over the money would be given to the Treasurer, which the act was intended to prevent. The effect would be, that the Treasurer could extract from the Exchequer 100,000*l.* and put 8,000*l.* into his pocket, wanting only for the public service 92,000*l.*"

After some farther illustrations of the same kind, Mr. Whitbread said: "The intention of the statute is clear? the words are simple and appropriate, but if the acumen of the learned Gentlemen can discover any critical error, they will be at liberty to argue it."

(Mr. Plomer smiled.)

"I perceive my learned friend has indulged himself in a transient smile. If his countenance be for a moment illumined by his consciousness of the innocence of his client, I shall be happy, and I am sure he does not give way to this expression of feeling, from any contempt for those who with myself are employed in the service of the public, and who have reluctantly undertaken this great and laborious duty.

"In 1805, there was a sum of 40,000*l.* discovered, which was said to be applied by Lord Melville to some national purpose, and your Lordships will recollect, that the subject was investigated in Parliament. No defence of this transaction was attempted: they said 'we will break the law, and the affair shall go unexplained.' Lord Melville, however, could not prevent the circumstance of the application of this sum being known, and he with some boldness declared, that 'If Mr. Pitt had not informed you how it was applied, I would not have told you.' What was done in *this case*? An act of indemnity was obtained, and the statute distinctly declares, that the thing was unlawfully done. There, my Lords, in aid of our simplicity and stupidity, we have another Act of Parliament to justify our conclusion.

"Now, even from this imperfect statement, unsupplied as my deficiencies are by my more able coadjutors, it appears to me, that if the facts I have disclosed should be confirmed by evidence, every candid mind must be convinced that the noble defendant is culpable. The only question is, did he, or did he not, give authority to the Paymaster? What is his own confession on this subject? 'If (says he) it is meant to ask me whether I ever gave any direct authority to the Paymaster to use the money in the manner above mentioned, I should certainly answer no: but I have no hesitation in saying, that I believed and understood he did, and never prohibited him from doing so.'

"Mr. Trotter the Paymaster did what? He took up money from the Bank, and lodged it in the hands of private bankers, those private bankers were Messrs. Coutts and Co. where the money was paid in and out, and interchanged, on a thousand occasions without any reference to navy services whatever.

"Did he do this to any considerable amount? We can shew to what extent this was done through every progressive month. A few of the Items will explain this matter."

(Mr. Whitbread here read several amounts from memoranda before him, 100,000*l.* 20,000*l.* 50,000*l.* 75,000*l.* 101,000*l.* 271,000*l.* "and at last (said he) the trstransaction

transaction was so prodigious, as to reach to 490,000*l.* just before Mr. Dundas went out of office.

"Did the noble defendant make any enquiry into this? He declares he made no such enquiry. What, did nothing bring to his notice these vast sums so disposed of? Yes, I will shew you that he must have enquired. We say, that the money was exposed to loss; not by being at Messrs. Coutts' where it might be as safe as any where else; but by being engaged in various ways and deposited at different places; for the fact is, it was any where, and every where, but at Messrs. Coutts'. I can expose to you a large account, by which it appears, that out of these monies, navy bills were bought, when they had fallen to a great discount, and I can point out the precise sums lent to supply the deficiencies from this cause. There was a great loss on the negociation, and if Mr. Trotter had not enriched himself by his connection with Lord Melville, he would not have been able to have extricated himself from this embarrassment.

"We not only say that the public property was exposed to these losses but we further assert that it was drawn from the controul of the Treasurer of the Navy in whose person the confidence was reposed: While at the Bank it was under this controul: if the Paymaster were to die, to abscond, or whatever might become of Mr. Trotter, at the Bank the money was the effects of the public and was capable of being produced: but when in the hands of a private banker it was liable to be lost to the public, and no private banker could prevent its being drawn out by Mr. Trotter at his own pleasure, whatever might be his persuasion that the money belonged to the public.

"Then this power of disposing of these monies, Mr. Trotter delegated to another, and then again to a third person as in some instances, so that there was no end to the risk or loss, no limit to the extent of the power to draw, and no calculation could be made on the mischief the public might suffer under a variety of circumstances which might be stated.

"The whole money was thus drawn from the Bank, and deposited with the bankers under the direction of the paymaster. The reason given by his lordship for this, is,

the opinion, that it would add more facility to the conduct of the business of the office in the multitude of small payments to be made, than if the money were to be deposited, according to the constitution of the office, in an iron chest; and that the various parties receiving small payments, would be less liable to be imposed upon, than if they were each to receive drafts for such small sums upon the Bank, at such a distance from the office after its removal to Somerset Place. One would imagine from this part of the evidence, that there was some material advantage in this mode, and that persons were sent to the Bank with drafts which might be lost in different ways. But never, in the conduct of the office, did such a thing take place, or was there the smallest necessity for it. You would imagine that the paymaster had the guineas passed through his own hand, but neither a guinea, nor a shilling was disposed of through this channel; or you might suppose, that small drafts were issued, but the fact was wholly otherwise: again, you might conjecture, that they were paying money night and day from the office. If you expect that any thing like this occurred, you will be wholly disappointed.

"None of these practices, of which we now complain, existed during the treasurership of Lord Harrowby, Mr. Bragge, and others. If assignments were brought to Mr. Trotter on Monday for 100,000l. and not more than 30,000l. or 40,000l. were immediately wanted; that sum only was applied, for the rest, it was answered, 'I shall be here at the office, if you want it, it shall be given you.' Well, where was the surplus? It was left at the Bank where it ought to be, until it was required for effective payments.

"You would suppose, my lords, on a contemplation of these facts, that great balances were in the hands of Messrs. Coutts; but, in this, also, you will be deceived. Perhaps, when 100,000l. was drawn for, only 1,600l. constituted such balance, and sometimes only 200l. and they often continued largely overdrawn. This shews, that the money at Messrs. Coutts' did not lie there until the public service wanted it, but that it was drawn from thence for the purposes of private emolument.

"Lord Melville was asked, 'Did you give permission

to

to the paymaster to draw the money from the Bank, and lodge it in the hands of a private banker, with a view to his deriving any advantage or emolument therefrom ?' He answers, " If it is meant to ask me whether I ever gave any direct authority to the paymaster to use the money in the manner abovementioned, I should certainly answer, no ; but I have no hesitation in saying, that I believed and understood he did, and never prohibited him from doing so.' Now should this have been permitted by any superior officer of such an establishment, above all, by Lord Melville, who is the author of the act to prevent the misapplication of the public money in the office of treasurer of the navy. If the salary were too small, why did he not propose its augmentation ? He had free access to the royal ear, and what he recommended would have been listened to with peculiar favour and attention. By a single word, he might have obtained the accession of income he required, by the influence he enjoyed in the situation he occupied.

" It is unnecessary to dwell longer on this part of the subject : we charge against him these articles, and we say, that he permitted Mr. Trotter to commit these acts, that he promoted their commission, and that the culpability rests upon him in the same degree, as if he himself had been the sole instrument.

" We next charge upon Lord Melville, that he participated in the profits made by Mr. Trotter by this misapplication of the public monies.

" But, in the variety of objects to which my present duty calls my attention, one thing I have forgotten ; and the recollection of this, will lead me to another item of 10,000l. and this is particularly referred to in the fifth article of impeachment. This sum is a part of the 40,000l. the misapplication of which has been made a matter of notoriety by a course I have stated. On this subject we have the confession of Lord Melville to a certain extent before the whole House of Commons, and I shall endeavour to shew to what purpose he devoted it ; and if he be silent, let his silence convict him. If I am correct in what I lay before you, he is an unfaithful servant of the public, and of him an example ought to be

made for the instruction of those who in future shall receive confidence in such situations.

" We now come to that part of the history of the Navy Pay Office, in which a person of the name of Jellicoe was employed. I cannot bring Mr. Jellicoe before you, but we must resort to some other mode of proof, which I hope will be equally satisfactory: unfortunately, this gentleman had dealings with the public money, a deficiency arose, which he was not able to make good, and he died of a broken heart. And here, let me observe, that all prosecutions of this sort are instituted for the general benefit, and not with the view of harassing any private individual. All punishment is inflicted for the sake of example, and not for the purpose of personal vengeance. It is the morals of a country, which in all these enquiries we ought to regard, and it is to this, which every honourable prosecutor ought to look, and this, every impartial court will respect.

" If I could employ the voice of an angel, and render it audible to the remotest corners of the earth, I would caution every friend of virtue, before he accepts of any great public engagement, I would shew him, that the temptations are great, and I would invite him to attend to the punishment which would be the consequence of misconduct. Mr. Jellicoe, a respectable member of society, was brought to a premature grave by these temptations. Others have been constrained to submit to the same fate, and all the advantages Mr. Trotter has derived, cannot repay him for the misery of his present situation, and for the wretchedness he must feel for the condition of his friend. Look at Lord Melville, look to the degradation to which he is descended, after having filled the first offices of the state. With these instances before me, I would say to the friend of my bosom, 'As you would avoid the lowest depths of horror, touch not the public money.'

" We charge Mr. Trotter, the agent of Lord Melville, with having made advantage of the public money; and Mr. Trotter will himself tell you, that he did so. We shall shew you, that this person made large advances without receiving any interest from Lord Melville.

" A difficulty in this case arose from a singular circumstance.

cumstance. We have had laid before us, an account kept for the very purpose of preventing discovery, and which the noble defendant himself said, it was impossible to unravel. It is true, that it was a difficulty, but I deny that it is so now, the whole account is made perfectly clear; we shall explain to you the commencement of it; we shall conduct you to the close; and it will be seen to be as conspicuous as the noon-day sun.

" Lord Melville and Mr. Trotter had thirteen accounts between them, nine of which may be properly considered as Lord Melville's own accounts. Six of these were in the names of public characters, and three of them in the names of private persons. All these, my Lords, we have successfully endeavoured to unravel. Mr. Trotter will tell you, that he had a mixed fund, and that he made advantage of this account. Further, we shall shew you, that to prevent discovery, the books and papers were destroyed. This is the charge we make, and this charge we undertake to support. Mr. Trotter kept an account current with Lord Melville in a book; this account was copied out periodically, and was delivered to the noble defendant with another, which we shall produce. Lord Melville, after inspecting this account, signed the duplicate, one of the accounts he himself retained, the other was given to Mr. Trotter. The book itself is destroyed, although it contained various other accounts; and I assert, that it was destroyed for the purpose of concealment. One of the books Mr. Trotter happened to have lost before this general destruction of the books and papers: fortunately, this has been since found, and to the extent I have at present carried it, will confirm Mr. Trotter's evidence.

" It will be scarcely credited, that an agreement exists, which was made between Mr. Trotter and Lord Melville, two public officers, reciting, that they had mutually destroyed all accounts and vouchers, stating the different items and articles of the public accounts. This is a contract of a nature, which you, learned in the law, have perhaps never heard of, and which will excite the surprize of all the unlearned in the science of legislation. There is no example, or precedent to be found of such an act: and it appears still more astonishing and unac-

unaccountable, when we reflect on the time when it was committed. It was done, my Lords, at the period when the Commissioners of Naval Enquiry were investigating the national accounts: between the time, my Lords, of the accounts being demanded, and the answer being given to the application for them.

Mr. Trotter is stated to be a debtor to Lord Melville in the sum of between 14,000*l.* and 15,000*l.*; and no explanation is given of the items from which this balance is taken. Here is a man entrusted with one hundred and thirty millions of money, and at last an unexplained balance of 1,400*l.* is said to exist between two public officers, and the question with the nation is supposed to be capable of being adjusted with all this facility. What do they say? Whereas for several years past, there have been sundry accounts, the balance of which has been lately adjusted, and agreed upon between us, both parties are perfectly satisfied, and do approve of and ratify the same; and in consequence of this agreement, they have mutually given up certain papers, and agree to destroy, and consider of none effect all the rest.

"This release then proves one part of the serious charge, that documents and papers were destroyed, and that they could not be so destroyed for any fair purpose. The inference is necessary and unavoidable."

After some further general remark on the evidence, the honourable manager continued.

"In one of the interviews with Lord Melville, this person being one of the great officers of state, and one of the most active members of administration, he said to Mr. Trotter, that it was highly probable India Stock would rise, and that therefore he should be glad to procure this Stock.

"Mr. Trotter understood a little more perhaps than Lord Melville intended; and he said, 'I will tell you the means by which you may possess yourself of a certain quantity: there are long balances of the public money, you may supply yourself with these sums for such a purchase." Upon this, Lord Melville expressing some indignation, said, 'he would not apply the public money in that way.' Was not this the moment for Lord Melville

Melville to say, 'What balances are these? These ought to be brought to account.' But not a word of this kind did he utter.

"Afterwards Mr. Trotter began to reflect on the imprudence of such a proposition, and he told Lord Melville that he had a relation who could give security for such purchases. The noble defendant agreed that this should be done without one syllable about public balances. Subsequently Mr. Trotter informed him of several purchases which at last were carried to the extent of 13,500l. To establish these purchases we shall adduce evidence from the best authority. And after they were effected Lord Melville conferred with Mr. Trotter upon the subject.

"But who was this friend? Mr. Trotter went to a person of the name of Lind, and asked him to purchase stock for the Treasurer of the Navy. This person said he had no money, and Mr. Trotter actually lent him the public money, in order that he might make a second loan to Lord Melville to purchase the stock. Mr. Trotter will acquaint you, that he never told the name of the man to Lord Melville, and that no security was given. The dividends were received by Mr. Trotter, first in Lind's name, then in his own, then in Messrs. Coutts, and all the dividends by whomsoever received, were carried to Lord Melville's account by Mr. Trotter. Some time posterior to this, India Stock rose ten per cent: it will be seen, that Lord Melville profited extremely by the speculation, that he had a perfect knowledge of the transaction. In the whole, the cost of the India Stock amounted to 23,000l. including all the progressive purchases; then it was reduced to 20,000l. by payment of the noble defendant, or by some other means and he paying from this source, I contend he must know the nature of the transaction.

"But leaving this subject for the present, I now come to that part of the charge, in which we say he took to his own use 20,000l, or thereabouts without interest, the sum so drawn, being public money. You will, recollect my Lords, that I have already mentioned an item of 10,600l. This was a sum in the chest account, and was the first particular there stated. Be pleased to retain this on your recollection, and to remember at the same

time, what the noble defendant has asserted : that he never applied any portion of the public money for the purpose of his own emolument. The amount he has acknowledged to have received, and it will be manifest, that he has paid no interest whatever for its employment.

" This iron chest account, and the annual account were both laid before him, and he knew they contained public money advanced for his use. It would be impossible for Lord Melville to deny that this was public money, or to deny that it was thus applied to his own exclusive advantage. The matters were easily transacted between Lord Melville and Mr. Trotter; whatever demands the former made the latter immediately complied with, and the account of these affairs was delivered periodically at the end of each year.

But in whatever doubt the most scrupulous may be disposed to indulge, there was a particular sum, which passed from one account to the other, which clears away all obscurity, and makes the conviction irresistible, that Lord Melville must have been acquainted with this misapplication of the funds of the state. I allude, my Lords, to a speculation in what was called the Loyalty Loan. You well know, that it was expected that all persons connected with the administration of government, should subscribe to this loan, and Lord Melville put down his name for 10,000l. How was this to be paid ? The payments were all made by Mr. Trotter, and every farthing was discharged out of the public monies"

" Subsequently, Mr. Trotter feeling some apprehensions from the appearance of this sum in his private account with Lord Melville, transferred it to the chest account, and of this fact, his Lordship was distinctly informed by direct and positive assertion. Besides this, it was in black and white before him, and no uncertainty could remain on his mind. The object of this transfer was to secure Mr. Trotter from the responsibility to which he was exposing himself by this transaction. Although, my Lords, the books and papers are burnt and destroyed, yet I think I can shew many of these interchanges, as clearly as if I could produce the accounts themselves.

"To revert now to the East India Stock. The profit attending this speculation was not inconsiderable, and the produce was paid into Lord Melville's particular account, where it greatly exceeded the interest on the loan made for the purchase. This is only a continuation of a private account which was begun by Mr. Douglas, in the office.

"I now come to the last account, which is called the account current, between Lord Melville and Mr. Trotter. This account was intended to comprizë all the items of account between them excepting some particular amounts, and among these the 10,000l. for the Loyalty Loan, which was transferred in the manner I have just explained.

"Before I speak to this account, your Lordships may be disposed to enquire who this Mr. Trotter was, who was reserved for such extensive concerns with the noble defendant? Mr. Trotter was not at his first introduction into life in the Navy Office. Before he appeared there, he had attempted to set up in a little way of business as a navy agent. When he came to the office, he had a small salary, varying from 50l. to 100l. a year, and his private fortune was nothing. Lord Melville correctly knew such was his situation; and yet, soon after he entered the office, his Lordship borrowed immense sums of money, which it was impossible this dependant of office could supply from his own resources.

"Is it then to be contended with any decency, that Lord Melville was wholly ignorant that the advances made to him were from the public money?

"Among the perplexed accounts produced on these affairs, we do find, that not only trifling sums were paid in this way, to Lord Melville, but amounts to the reach of 8000l. at the early part of this history to which I have referred.

"Must not Lord Melville have been completely aware, that the means and condition of Mr. Trotter could in no way enable him to supply such large sums, without charging interest for the loan; if, indeed, it could be for a moment supposed, that the credit of this obscure individual in the market could raise the money?

" Then, there was a bond of which you will hear, for 4,000l.; and this bond was destroyed. What did this bond carry on the face of it? The bond itself expressed, that the money lent upon it was public money. Why did you cancel it? 'Because,' says Mr. Trotter, 'I thought it was a proper compliment to the treasurer of the navy.'

" What can they mean by these proper compliments? Is there any thing like fairness in such transactions? Will any man be such a driveller as to suppose that these compliments were paid for nothing?

" We learn that this sum was not taken out of private money: it was extracted out of an unmixed fund of public money, in the form of exchequer bills. This account contained also various sums, amounting in the whole to 22,000l., for which Lord Melville was a debtor to Mr. Trotter.

" Notwithstanding the want of recollection assumed on very numerous occasions, it will astonish the public to learn, how accurately the memory of these persons has served them, almost to a fraction in particular instances.

" Be this as it may, to this account was carried generally, all sums received for Lord Melville, and among these, were different amounts received from Scotland, and the sums remitted from Melville Castle, and the salaries of the defendant from the several employments he held under the state. It is true, that the separate interests were branched out into various accounts, but to whatever ramification they extended, they were all ultimately referred to the two accounts I have named; either the iron-chest account, or the account current, to which I am now immediately referring. Some receipts indeed did not come into the hands of Mr. Trotter, and never appeared in these accounts: thus, Lord Melville was President of the Board of Control, and the emoluments for this duty were received by others: he was Keeper of the Signet, and his income from this source was received by Mr. Dundas at Edinburgh.

" Lord Melville subsequently resigned his Treasurership, and it became a matter of great moment to Mr. Trotter, to make up his deficiences to the public, which we can prove at that time to be 220,000l.

" I have

" I have not time to dwell upon the particular items of this account, but it will be seen there were different amounts sent to Scotland; there was a heritable bond, and various other causes of disburse: and the supplies for these were formed in a fund, for which Lord Melville paid no interest, and for which he gave no security.

" What was the result with respect to the great deficit I have adverted to? Mr. Trotter paid in all the sums which were due to the public, excepting the amount at that time in the possession of Lord Melville. By the year 1800, Mr. Trotter had made up the whole of his balance, and the entire deficiency was occasioned by the amounts taken up by the defendant. In this situation, Mr. Trotter told Lord Melville, that as he was going out of office, it was necessary, as no doubt it was, that the differences should be made good. He showed to Lord Melville the chest account, and the account current, telling the defendant, that he must not only make up the one, but the other, and the deficiency as stated to be 220,000l. How was it to be provided for?

" All the stock in Lord Melville's name was to be sold, excepting a particularly favoured parcel, and the stock was sold.

" What was this favoured adventure? It consisted of 13,500l India stock, which had been lent without interest. The culprit was then found; he could not owe the money to Mr. Trotter ultimately, because a lien was preserved on this India stock. To whom was it pledged? Apparently to Trotter and his friend. What, make the stock carry double? No, it was for Trotter only.

" From these sources, no inconsiderable sum was procured; and 56,000l. more was derived from the intervention of a noble person whom every one will mention at all times with peculiar respect."

" But who took possession nominally of this stock? It was Mr. Mark Sprott. For whom did he take it? Mr. Trotter himself: and from this negociation arose part of the funds to be supplied. The produce of this was 22,700l. I think, and was paid by Trotter into Lord Melville's account. The excess, or profit on the India stock, which India stock was bought with the public money, and the dividends on which were regularly carried

ried to Lord Melville's credit, constituted a part of the fund to make up the deficiency of Lord Melville, and we are now to be gravely told, that he made no advantage of the public money.

"I have said the other stocks were sold. They amounted to 12,000l., and yet the sum required was not obtained. Looking round, and availing himself of all his expedients, it was not sufficient, and in this difficulty, he applied to Messrs Coutts, and they advanced to him upon security their banking bills for 13,000l.

"This sum was paid into the Bank; we know the clerk who paid it, and we know that the sum was drawn by Lord Melville out of Messrs Coutts' house. If he were not a debtor to the public, for what purpose did he make this payment? Is this mystery to be impenetrable? Are we to think that this defendant would make a present to the public of 13,000l. amidst all the difficulties of his situation? I am sure, from my view of his conduct, he would not have so done.

"But, my lords, after having put all these wheels in motion, he did not arrive at the point he proposed, he could not make up his balance. He went to a gentleman in this extremity to whom he had lent money, and said to him, 'In 1782 I accommodated you, you must now return the obligation.' This person complied, and 5,350l. was the sum procured. He drew out the exact sum requisite to make up the balance.

"What a farce and mockery is it to pretend, after these transactions, that he did not avail himself of the public money, which was confided to him in his official situation! Then an excuse was invented, and it was said that he did not know where to pay the money. Where did Lord Chatham leave his balances? Where did others? He, and they paid them into the Bank: and all this circuity was like the rest, to mask the transaction, and to make that appear as just and fair, which was neither just nor fair.

"We shall now bring this investigation to a point. From the evidence to which I have referred, you will plainly see, my lords, how the whole of this complicated business originated in trifles, until it was thus widely expanded.

"We

"We see the noble lord occupying this broad ground; we have him before us, and I say, he will be convicted of these offences. I contend, that these transactions were known to be unjust and dishonourable, during the whole time that they were in their progress. Not only the defendant knew it, but all the persons concerned in this multifarious business; yet they dared not to reveal what they had discovered.

"Could Lord Melville think that Mr. Trotter had stolen the money, or did he suppose that he could conjure up gold at his pleasure? He must have applied for these sums knowing that they were taken from the chest, and the other resources of office.

"My lords, we shall too palpably show the concern Lord Melville had in these affairs, and we shall successfully penetrate through the gloom purposely diffused around us. We deny that we come here with any malignant designs, and we confidently assert, in the name of the Commons of England, that we approach this august tribunal in the genuine spirit of truth and justice. We do not, on this occasion, my lords, present before you a disgusting compact of malevolence and power, triumphing over innocence and debility; the justice of our cause has placed us far above such an imputation. With respect to power; what is the object? Is it to oppress an unfortunate individual who has moved in the obscure circle of life, and from the meanness of his situation is unknown to the august members of this solemn tribunal? Whatever the defendant be now, he was a man in the plenitude of power; he held some of the highest offices of the state; he was seen basking in the sun-shine of royal favour; he was strong in his own energies; and he had a friend, my lords, in one of the most able ministers that ever existed in this or in any other country. What is it that most remarkably distinguishes the power of this ex-minister? Every body was acquainted with his nefarious conduct, and yet the rumour was not heard in the streets; his exorbitant power silenced the voice of truth. Did I say he had a friend in an eminent statesman? He has now friends numerous and opulent among your lordships, from the sources of the Ganges to the extremity of the Orkneys he is known of the world, and has friends

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in every region of the land. There was hardly a ship from the torrid zones of the East, which did not waft friends warm as the region from which they emanated, to this favourite child of power.

"Such is the situation of the noble defendant before you: but what were the extraordinary circumstances which bore down all obstruction, and led to the detection of his misconduct?

"To satisfy this enquiry, we must now turn our attention to that man who selected the immortal Nelson from among the hosts he commanded, and who sent him to the Nile to display the glory of the British arms before the ancient theatre of Roman greatness—that man, my lords, who has now unfurled the British banners, and is either engaged in defying the enemies of England, in their own ports, or, if they venture to approach him, is hurling destruction among them. That man, my lords, was appointed to the most dignified offices which the crown of Britain has to confer on its faithful and intelligent subjects. What did this gallant admiral, when thus advanced to civil honours, propose to effect? He said, 'While I am in power, I will endeavour to deprive it of some of the evils, of some of the immoral tendencies with which it is accompanied.' My lords, you all know that under the influence of this disposition he set on foot an enquiry of great importance to the well-being of the state, which was sanctioned by legislative provisions. These parliamentary regulations brought forward a set of men, who fulfilled the duty they had undertaken with integrity and honour: they laid the prominent facts before us; we took them up as they left them; and we have now brought them hither to submit them to your inspection. And although the notoriety of these things be abundantly established, we are not here to content ourselves with notoriety, we are to rest wholly on the character and strength of the evidence.

"We can prove that, to a large amount, Lord Melville has misapplied the public money. What then? Lord Melville is not rich; he has not locked up in his coffers the treasures of the public: he is not attached to wealth for the sake of accumulation. No, my lords, if he loved money merely for its own sake he would be a much less

dangerous

dangerous member of the community. Avarice is so disgusting in itself, that every one hastens from the presence of the individual who is degraded by this passion. What was the temptation which influenced the mind of the noble defendant to abandon the safe path of duty? Was it the love of pleasure and hospitality? Was it to acquire a reputation for generosity? Even in this case, in whatever prodigality he might indulge, to promote his wishes the effects would be transient, and he would not be dangerous to the state. But, my lords, if it be true that he employed these treasures as the instruments of collecting a mass of power to shield him from the awful demands of justice, to protect him in the progress of his crimes, this, indeed, would be a most perilous application of the wealth which was entrusted into his hands.

"My lords, when we consult the page of history, we read of many unfortunate persons who have been impeached for the same offence; but not often with the same means of conviction from their own confession. In the days of an illustrious princess appeared Bacon, who was acquainted with the inmost recesses of the human heart; who knew all that was in man; the virtues by which he might be ennobled, and the vices by which he might be dishonoured: Bacon, who was not only the glory of his country, but who commanded universal admiration: this distinguished phenomenon among his species, submitted to the degrading passion, and obtained money by the most disgraceful means. But, my lords, it is not necessary to invite your attention to the characters of our more early annals; the present inquiry affects a contemporary; the only subject before you is, Did he do these things, and are the charges against him supported by competent evidence?"

SECOND DAY.

WEDNESDAY, APRIL 30TH.

MR. Whitbread. "We shall now proceed to the evidence."

Mr. Giles. "The first evidence before your Lordships will respect the introductory matter, and I shall begin with referring to the account under which the commissioners of public accounts were appointed. Is it your pleasure, that before we proceed, this act should be read?

This not being deemed necessary,

Mr. Giles said, "I shall now call for the eighth report, which is in the possession of Mr. Witham, and who is the proper officer to identify it.

Mr. George Witham sworn and examined by Mr. Giles.

Q. In what situation are you?

A. I am clerk of the Journals of the House of Commons.

Q. Have you brought with you the reports of the commissioners of the public accounts of the kingdom?

A. I have.

Q. Produce the third and eighth reports.

A. They are here; the original reports.

The Lord Chancellor. "Would you have the whole read, or only a part of them?

Mr. Giles. "Only an extract or two, my Lord."

The Lord Chancellor. "Let the counsel for Lord Melville say if they wish to have the whole read?"

Mr. Plomer. "I do not know, my Lord, what part is intended to be read, so that it is impossible for me to determine."

Mr. Whitbread. "It will save time perhaps, my Lord, if the whole reports be read, as the discussion would occasion more delay than the perusal.

The Lord Chancellor. "The learned counsel for the defendant may either concur or dissent."

Mr. Rose then read the third report of the commissioners for auditing the public accounts of the kingdom, but as this was merely in compliance with the forms required, and much of this report was wholly irrelevant to the business before the Court, we shall only give the following extract:

"It appears that large sums of money were constantly in the hands of the Treasurer of the Navy; that upon his quitting office he kept possession of the balance with which he was at that time charged, and continued to make payments to the officers and seamen

men of the fleet upon such ships books as were opened during his treasurership, and on such assignments as might be directed by the public boards until his accounts were finally made up; this seldom took place till many years after his quitting office, and during that time he had the use of the public money in his hands. At the time of making that report there were five Ex-Treasurers; the sums in their possession amounted to one hundred and four thousand four hundred and five pounds, four shillings, and sixpence halfpenny: and at the head of the list stood a defaulter in the sum of twenty-seven thousand six hundred and eleven pounds, six shillings, and five pence one farthing, whose final account was dated so far back as the 6th of April 1689—6th of March 1781."

Mr. Whitbread now proposed to read a citation from the Journals of the House of Commons, of the 7th of March 1781.

Mr. Rose, junior clerk of the House of Lords, was about to read from the Journals, when the counsel for the noble defendant interposed.

Mr. Plomer. "My Lord, the evidence now offered is a printed book. I have no objection, if the original be sent for, that in the mean time the printed journals be read.

"Your Lordships will immediately discern, that this is not the best evidence the nature of the case admits, and the original must be produced. I am at a loss to conjecture from what motive this secondary evidence should be offered to you. I hope you will not think that I make this objection with any view needlessly to occupy your time; but it is right, that before this august tribunal, every stage of the enquiry should be conducted with correctness; for your proceeding on this occasion will necessarily form a precedent, when the fortunes, the reputation, and the lives of individuals will be determined."

Mr. Adam. "According to the doctrine of evidence established in the courts, these printed Journals cannot be read as legal evidence. You are aware, my Lords, that in all cases the best evidence is required, and this is not testimony of that description, inasmuch as it is not the original Journal, but a transcript; and you are aware that, in another proceeding with which you are familar, this species of evidence is never given. In the committee of privileges, you always require the Journals of your own House to be produced; and if you do not admit this evidence in a matter of civil right, as a title of honour, you will not think it wrong, if we require, in a penal case, that the original Journals should be brought, and that the copies should not be deemed sufficient."

Sir Samuel Romilly. "We conceive, that what we now contend for is, my Lords, a rule of evidence fully established and settled upon one of the most important occasions in the history of criminal jurisprudence; I mean in the case of a noble person charged with High Treason. Upon the trial of Lord George Gordon, it was so settled in the King's Bench, and it has been admitted in all future times. It is not of consequence with regard

to this proof that these printed books should be read, but we do not think that it becomes the managers of the House of Commons to change the nature of their testimony, when they offer competent evidence before your Lordships."

The Lord Chancellor. "I do not know that there was any decision of the court on this subject in Lord George Gordon's trial. This sort of evidence is assented to by the counsel."

Sir Samuel Romilly. "We are so anxious, my Lord, that no delay should arise, that rather than argue the point in dispute, we will send for the original Journals, protesting, however, that we are not bound to produce them."

The Lord Chancellor. "I have always considered you must have the original of documents to which you can procure access, and which are removeable. In cases where you have not the original, you are required to have, either an office copy, or an examined copy. These Journals, if an examined copy, might be sufficient."

Mr. Rose read a short extract from the printed Journals, (being an examined copy) under the date of the 7th of March, 1781.

Mr. Plomer. "It appears by the report which has been referred to, that three persons as representatives of the Ex-Treasurer were examined. That part of the report which relates to them should be read; I do not however require this formality, but it ought to appear upon your lordships' minutes.

After some interlocutory observations between Lords Hawkesbury, Suffolk, and other noble lords,

Mr. Plomer said, "The only passage on the part of the defence I desire to be read, is what refers to the Ex-Treasurer. It is short and I have pointed the passages out to the clerk."

Mr. Giles. "The managers have no objection to have it read, if they are to be permitted at a future time to read another part of the Appendix No. 3."

Mr. Rose under the directions of the court, here read No. 16, 17, 18, and 19.

No. 16 was the examination of the Right Honorable Earl Temple on the 2d of November, 1780, and the balance in his hands, as representative of the Right Honorable George Grenville was stated amounting to 12,360l,

No. 17, gave the same particulars from the examination of Lord Viscount Barrington, on the 7th of November, 1780.

No. 18, was the examination of Lord Viscount Howe, for the same purpose.

No. 19, was the examination of Sir Gilbert Elliot, whose balance was also stated.

Mr. Giles. "The managers now propose to prove, that the report of the Commissioners was taken into the consideration of the House of Commons, and for this, I produce the Journals under the date of the 19th of June 1782.

Mr. Rose then read the entry under that date:

Resolved.

Resolved, "That it is the opinion of this committee, that from henceforward the Paymaster-General of his Majesty's Land Forces, and the Treasurer of the Navy for the time being, shall not apply any sum, or sums of money imprested to them, or either of them, to any purpose of advantage or interest to themselves, either directly or indirectly."

Mr. Giles. "As the 6th report, which I designed next to be read, is not yet come, I will now produce the warrant of the 22d of June, 1782, under which Isaac Barré Esq. was appointed Treasurer of the Navy."

William Pickburne sworn, and examined by Mr. Giles.

Q. What situation do you at present hold?
A. I am a clerk in the Treasury.
Q. What books have you brought with you?
A. I have the entry of the warrants.
Q. Produce the entry of the warrant which appointed Mr. Barré Treasurer of the Navy on the 22d of June, 1782?

The entry being exhibited,

Mr. Giles said, "I propose that the witness should read that entry."

Mr. Plomer rose to object. "My Lords, I consider this improper evidence. The preamble of the article states, that the appointment is by warrrant under the royal sign manual. Now, instead of producing the warrant, they have brought a book: I do not at all know what the book is, but this I know, that it will not authenticate the warrant."

The Lord Chancellor. "What is the nature of the entry, is it made before or after the appointment?" (To the witness.)

Q. Is it a regular book, kept in the office into which every warrant is entered?
A. Not every warrant: it is the general book of warrants.

Mr. Frederic Coombe was next sworn, and examined by Mr. Giles.

Q. Were you executor to Mr. Isaac Barré?
A. I was.
Q. Have you searched for the papers required of you?
A. I have, but I have not succeeded in finding either of them.

Witness cross-examined by Mr. Plomer.

Q. You say you were executor, did you act as executor?
A. I did not.
Q. Did you do nothing in the character of executor?
A. Nothing.

Mr. Plomer. "Then he knows nothing about the papers. I understand the enquiry is about a box of papers. What knowledge

ledge could the witness have, that this box of papers, supposed to be sent to him, were the papers of Mr. Isaac Barré, or whether they were the papers of the Marquis Townshend, or of the Marchioness, from whom he received them?"

Mr. Giles. Q. From whom did you receive the papers when they first came to your hands? and were they before in the possession of Lady Townshend?

Before the reply was given, Mr. Giles asked the learned counsel for the defendant, if they designed to object to the evidence."

Mr. Plomer. "What do you offer in evidence?"

Mr. Giles. "My Lords, the Managers of the Commons were not apprized that the papers had been in the possession of Lady Townshend. If the learned counsel persists in his objections to reading the entry in the official book of entry; and your Lordship should decide that it cannot be read without their consent, we must take measures to bring her Ladyship before you."

The Lord Chancellor. "I am of opinion, that if this testimony be objected to, Lady Townshend must be examined."

(To the witness.)

Q. Did you make the entry, or is the entry in any hand writing with which you are acquainted?

A. No, my Lord.

Mr. Giles. Q. Where are the warrants regularly deposited?

A. I believe in the Auditor's Office.

Mr. Whitbread. "I will call the clerk of the Auditor's Office."

Mr. Bernard Cobb sworn, and examined by Mr. Giles.

Q. Are you clerk in the Auditor's Office?

A. I am not, Sir.

Q. In what office are you?

A. In the office of the Inspector-General.

Q. Have you made search for the warrant, granting to Mr. Isaac Barré an increase of salary?

A. The warrant is not to be found in the office.

Q. Is it the regular office in which the warrants are deposited?

A. No, the warrant is brought for entry there, but it is taken away, to be afterwards entered at other offices.

The Lord Chancellor: "I understand the witness to say, that the warrant was taken away."

Mr. Whitbread. "We have shewn, at least, that the warrant is not to be found, either with the executor, or in the office where it is entered."

Mr. Giles. "We cannot then propose to read the entry, until Lady Townshend have been examined."

Mr. Plomer. "Her Ladyship's appearance would not remove the objection, because the custody of a warrant is not the custody of the individual, the warrant should be deposited in a public office;

office; and if they have meditated the existence of this warrant, the objection would remain."

Mr. Whitbread. "My Lords, your time and patience would be wholly exhausted by calling all the officers of the kingdom to shew, that there was no public office which was a regular and legal repository for these warrants. The fact is, that the warrant is always in the possession of the individual, and is not required to be placed in any public office."

The Lord Chancellor. "The counsel for Lord Melville say, that if Lady Townshend be called, the difficulty will not be removed with respect to the evidence. It is for the managers of the House of Commons to say if they will have this witness examined."

Lord Chancellor. Q. A question is proposed by many of their Lordships, if the witness knows who it was that took away the warrant?

A. I do not know.

Mr. Giles. "We shall postpone the proof of this allegation, until we can produce Lady Townshend before your Lordships. The next article we shall prove, is the appointment of the noble defendant to be Treasurer of the Navy; which I shall do by presenting the warrant, dated the 19th of April, 1802. The patent is under the great seal, and I give in evidence the original."

Mr. Plomer. "I beg it may not be understood, that we have the smallest objection to the book of Mr. Coombe, as proof to the extent to which it ought to be admitted. With regard to the papers of Mr. Barré, we shall certainly not trouble the noble personage to appear. If they will convince us, that these papers said to be of Mr. Barré contain what they presume, although not strictly legal evidence, we will be satisfied, and receive them as if they were legal evidence."

Mr. Adam. "We are certainly, my lords, desirous of relieving the noble lady from the embarrassment of appearing before your lordships to depose to this preliminary evidence; the question, however, of the admissibility of such testimony is of great importance; the course when a warrant for payment of money is subscribed by his Majesty, and countersigned by the Lords of the Treasury, is to carry it to the Exchequer to be entered, and other offices for passing public accounts. With respect to this warrant, the payment was not to be made from the Exchequer, but it was to be from the Navy Office, in its progress, it must have been in the custody of the party, and from him conveyed to the proper official repository.

"We are ready to admit that this warrant was not to be found among the papers of Mr. Barré, and with this admission, all negative evidence as to that point is unnecessary; and it is equally clear, that the entry at the Navy Office from which the payment emanated, is the best, if an entry be at all received in proof."

Mr. Whitbread. "Without troubling Lady Townshend, I could have had the deposition of Lord Amherst, who is now present. I now understand, that his lordship was not only executor to Mr. Barré, but gave the papers to Mr. Coombe; with regard to the copy in the Navy Office, we have here an officer who will produce it."

The Lord Chancellor. "You are relieved from the difficulty by what is admitted by the learned counsel for Lord Melville."

Mr. Giles. "My lord, the book we have produced contains a complete copy, and, in fact, the original, for the entry was made at the Exchequer, before the warrant itself was prepared. This, I contend, is full as satisfactory as the copy from the Navy Office; but if it be desired that the Navy Office copy should be produced, the managers of the Commons will assent."

The Lord Chancellor. "Is there any objection to this?

Mr. Plomer. "My lord, they have not yet authenticated the entry itself. The person who made it, should prove that he compared it with the original. The gentleman they have called can supply no such proof, as it is not, I presume, to be said, that the book proves itself. They ought to call the clerk who made the entry, who should say whether it be, or be not a true copy."

Mr. Giles. "I have already said, that we produce the book which has the entry before the warrant is made out. The course is, to bring the warrant in an unfinished state to be entered in the book, and according to this book, the blanks are supplied.

Mr. Mitford sworn and examined.

Lord Chancellor. Q. When the warrant is brought from the Treasury, whose duty is it to make the entry?

A. It is the duty of the Clerk of the Records.

Q. Do you know the signature of that clerk?

A. There is no signature in the book.

Q. A mere entry by the clerk?

A. Yes, my lord, it was entered by a clerk who has been long since dead.

Mr. Plomer. Q. Are all the warrants entered in that book?

A. Not all, but generally they are entered.

Mr. Giles. "The question, my lord, would be rather, whether he enters as a warrant what is not a warrant?

Lord Spencer. Q. Who is the warrant given to, and what becomes of it?

A. It is returned to the clerk, or his agent.

The Lord Chancellor. Q. When a warrant is brought to the Treasurer by course of office, it is parted with until the entry be made?

Q. No.

Lord Carmarthen. Q. Does the warrant authorise the Treasurer of the Navy to receive the money, or does it contain a direction to any one to pay the money?

A. It is an order upon the auditor to allow that sum on account of the warrant.

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The Lord Chancellor. "Do you know if money has been paid upon the warrant?

Mr. Giles. "I believe the managers will be able to shew that money was so paid. The warrant is not deposited at the Auditor's Office, at least until the money is paid.

Q. Must not the warrant be entered at the Auditor's office?
A. I do not know, not belonging to that office.

Mr. Giles. "Will you permit Mr. Cobb to be recalled, as he belongs to that office, and will be able to inform your lordships."

Mr. Cobb recalled and examined by Mr. Giles.

Q. Is the warrant left in your office?
A. No, the entry of the warrant has been considered sufficient.
Q. What becomes of the original warrant?
A. The party calls and takes it away.

Mr. Giles. "If any doubt remain on this matter, the managers have no objection to bring the warrant from the Navy Office, should that be more satisfactory to the learned counsel for the defendant, and for this purpose I will call Mr. Harmood."

Lord Lauderdale. Q. Did you make the entries from the original warrant?
A. Yes I did.

Mr. Harry Harmood sworn, and examined by Mr. Giles.

Q. Were you paymaster to Isaac Barré, Esq. when Treasurer of the Navy?
A. Yes.
Q. Do you recollect Mr. Barré having an increase of salary in that office?
A. I do.
Q. Was that increase, from time to time, paid to Mr. Barré?
A. Yes, it was.
Q. Do you know, under what authority, it was so paid?
A. I do not know under what authority.

The Lord Chancellor to the counsel for the Defendant. "The original warrant cannot be found."

Mr. Plomer. We are ready to admit, my Lord, that the warrant was not to be found among the papers of Mr. Barré. Thus far we admit, and no more."

The Lord Chancellor. Q. Do you know the amount of the salary you paid to Mr. Barré while Treasurer of the Navy?
A. I believe in all 4000l.
Lord Holland. Q. You are asked, in what office and manner that salary was paid?
A. It was paid to the office of Treasurer.
The Lord Chancellor. Q. By whom.
A. I do not recollect by whom.

Lord Derby. Q. Under whose authority was it paid?

A. I considered it to be under the warrant.

The Lord Chancellor. Q. Is it the course of the office to return the warrant after the entry?

A. I believe not.

Q. When the party brings the warrant for entry, is it the course to return it to him after the entry so made?

Mr. Whitbread (interposing). "The warrant is entered, I believe, in the Navy Pay Office, and not in the Navy Office. This witness is from the latter."

The Lord Chancellor. Q. Is the warrant delivered after the entry is made to the party?

A. It never is in the possession of the party until after the entry is made.

Q. Then, after it is regularly entered in all the offices, it goes to the party?

A. Yes, my lord, I suppose so.

The Lord Chancellor, to the counsel for the defendant. "You admit then, that the warrant has not been found in the papers of Mr. Barré?"

Mr. Plomer. "Yes, my Lord, but I cannot at present admit the proof of this entry. There are witnesses who might be brought to shew if the warrant were received into any official repository, or if it devolved into the hands of the individual."

Mr. Plomer. Q. Does the warrant, after the entry is made, go into the custody of the individual in whose favor it is prepared?

A. I really do not know what becomes of the warrant.

The Lord Chancellor. Q. Do you consider the increased payment of the salary upon the footing of the warrant?

A. I do, my Lord.

Q. Is it usual at the Navy Office to file the vouchers upon which the payments are made?

A. I cannot tell.

Q. Are you acquainted with the mode of passing the accounts of the Treasurer of the Navy?

A. It is many years since I was in the office.

A. Are the accounts examined first by the Navy Board?

A. They go first to some office of the Navy Board, and then to the Auditor's.

Q. Is the warrant of the Treasurer the authority for him to receive the money?

A. I believe it is.

Q. Is it a voucher necessary for passing his accounts?

A. I believe it is.

Lord Derby. Q. By what voucher or warrant do you receive your own salary?

A. By the order of the Treasurer himself.

Mr. Whitbread. "My Lords, I will put in an original warrant of the same nature, which will explain the form of that required.

Q. Mr.

Mr. Plomer. Q. Did you ever see this warrant in the possession of Mr. Barré?

A. I did not.

Q. If it had been in Mr. Barré's possession, does the witness believe that he should have seen it?

A. I have no doubt I should.

Mr. Plomer. "My Lords, we have no satisfactory account where the original is. The case as it now stands is, that it is neither to be found among the papers, nor is it in the possession of any of the witnesses. Mr. Harmood says he never saw it, and he has no doubt but if Mr. Barré had had it in his possession, he should have seen it. The probability is, that the original never reached the hands of the party benefited by it. The next endeavor has been to trace the warrant to certain offices, whither it might have been carried to be entered. The only offices they have proved to have any concern in it are the Treasury and the Auditor's Office. Supposing the original warrant were not to be found at these offices, where it was so entered, the next place of deposit, most probable, would be that office where the salary was paid: but here is no evidence with respect to this. But, admitting, for the sake of argument, that they had proved that the warrant was not to be found in the public offices, still, I say, they have not gone the length required for the production of the secondary evidence; because it is an entry into the Treasury book, which is not proved.

"The manager says, that the book is in the nature of a record. He cannot strictly mean a record, but a public document such as is considered to prove itself.

"But in the present case, the court is to be informed, not merely that the warrant did exist, but the terms of the warrant itself should be distinctly understood. Upon the exact force of the term, and upon every word contained in it much may depend. The true fact of the increase of salary by a warrant, does not authenticate all the intents which may be alledged of such warrant. How is a copy of one original to be proved by a comparison with another, before you have any evidence of either?

"It is then said, that of an official book no evidence is necessary; but I contend, that this is not a case when it can be admitted without evidence, if indeed it can under any circumstances at all. If it could be in any case dispensed with, it is where the law gives credence to the officer whose duty it is to make the entry.

"My Lords, they present to you an entry by an individual, but the hand-writing itself is not proved: nor have we seen if the officer making the entry be a person of that credence in the law to which I have just adverted?

"You are then required to receive an entry made by a person of whom you know nothing, and perhaps by one, in no respect authorised to make it. Upon every principle, they have not pro-

duced the evidence required by law, and cannot exhibit this book as a substitute for it."

Mr. Adam. "My Lords, you may be assured in what I have humbly to offer before you, I shall not repeat what my learned friend has already proposed for your attention, excepting where it is unavoidably connected with the argument I have to adduce. In addition to what has been stated, there are other grounds of reasoning which lead to the rejection of this sort of evidence. Before I enter upon this, I wish you to observe, the nature of the allegation; and you will find it to be an allegation of fact, relative to the situation of Mr. Isaac Barré, and the object is to affect the conduct of one individual by that of another; and I am confident, my Lords, you will be extremely cautious in receiving evidence for such a purpose.

"I content myself with the argument of my learned friend, inasmuch as it bears upon their not being entitled to secondary evidence; yet, I admit that secondary evidence may be sufficient when they have laid the first ground.

"This warrant is said to be copied in the Treasury book, but it is professedly copied before the warrant is made out; and at the time whether such warrant will ever appear, is matter of utter uncertainty. It is copied, also, without the cognizance of the individual to be benefited by it, and he is totally unacquainted with every formality with respect to the instrument until it is committed to his hands. This, then, is behind the back of the individual who is to derive advantage from it.

"It is proved, that the entry is not made by the proper clerk, and it is not established that the person who made the entry is an officer known to the law, so as to render his writing of any importance.

"Under these grounds, my Lords, I think you will consider, where the allegation respects another party, and not the individual before you, that this evidence is not sufficient."

The Lord Chancellor. "I think, as the case stands, the book may be read: how far it will be matter of evidence, is another consideration."

Lord Ellenborough. "I wish to submit it to the discretion of the honorable managers, whether they ought to consider the allegation respecting Mr. Isaac Barré to be so material as to require proof in the present state of the enquiry?

Mr. Giles. "We have, I understand, a witness arrived, who is provided with the book from the Navy Office.

"The allegation is simply, that his Majesty was pleased to grant an increased salary to the then Treasurer of the Navy: it takes no notice of the conduct of Mr. Isaac Barré, nor can we place it in contrast with that of the noble defendant. All we mean to say is, that the salary was granted in lieu of all other emoluments whatever. If there remains a doubt with the court of the admissibility

of

of the evidence, we will certainly wave it, but we shall first call Mr. Standert of the Navy Office in support of it.

"I contend that the warrant ought to be in the custody of the party to be benefited by it, but it does so happen in the course of the proceeding, that the Treasurer of the Navy must have his warrant entered at the Auditor's Office. I shall produce a warrant of Lord Melville for a similar purpose, which was in the hands of his Paymaster."

Mr. Standert sworn, and examined by Mr. Giles.

Q. What situation do you hold?
A. I am clerk of the Navy Office.
Q. What is the name of your place?
A. I am comptroller, with a regular salary.
Q. What is that book you have brought with you?
A. It contains copies of the warrants?
Q. Have you a copy of the warrant of the late Mr. Isaac Barré?
A. I have.
Q. Did you examine it with the original warrant?
A. I did.

Mr. Giles. "It being admitted by the learned counsel for the defendant, that the warrant is not to be found among the papers of Mr. Isaac Barré, I now produce an examined copy, which I contend to be competent evidence."

The Lord Chancellor. "Do the learned counsel for Lord Melville object to this evidence?"

Mr. Plomer. "I shall make no objection, for this evidence seems to go somewhat farther."

Mr. Rose then read the warrant for increasing the salary of Mr. Barré as Treasurer of the Navy, in the following terms:—

"George R.

"Whereas by letters patent under the Great Seal of Great Britain, bearing date the 10th day of April, 1782, we were graciously pleased to give and grant unto our right trusty and well-beloved counsellor Isaac Barré, Esquire, the office of Treasurer of our Navy royal and Ships, and receiver-general of all sums of money appointed, or from time to time to be appointed and payable for the support, maintenance, and reparation of our navy royal and ships, for emption and provisions appertaining to and necessary for our said navy and ships, and for wages and salaries of officers, servants, and other persons whatsoever belonging to our said navy and ships, or for matter or thing whatsoever in any manner touching or concerning our navy royal and ships, for the exercise and occupation of the said office, and for and in satisfaction of all wages and fees of threepence of lawful money for every pound to be received and paid by the said Isaac Barré, by virtue of his said office, we were further graciously pleased to give and grant

grant unto him by the said letters patent an annuity or yearly payment of two thousand pounds: and whereas it hath been represented unto us that the said annuity, or yearly payment, after deducting all charges, taxes, and expences thereon, will not produce to the said Isaac Barré more than the sum of one thousand eight hundred and fifty pounds in each year or thereabouts, and whereas for divers good causes and considerations, us hereunto moving, we are graciously pleased that the income of the Treasurer of our Navy should be augmented with an additional allowance of two thousand one hundred and fifty pounds, in order to make together with the said sum of one thousand eight hundred and fifty pounds, the said income to amount in future to the sum of four thousand pounds: our will and pleasure therefore is, and we do hereby vouch, authorize, and empower him the said I. Barré, to take and apply out of such monies as are or shall come into his hands, or to the hands of his cashiers, arisen or to arise by the sale of old naval stores, the sum of two thousand one hundred and fifty pounds, which, together with the before mentioned sum of one thousand eight hundred and fifty pounds, will make the said sum of four thousand pounds, which we are graciously pleased to grant to him clear of all deductions, in full satisfaction of all wages and fees, and other profits and emoluments heretofore enjoyed by former Treasurers of our Navy, the same to commence and be computed from the day of the letters patent appointing him to the office of Treasurer of our Navy, and to continue during his continuance in the said office of Treasurer of our Navy, or until we shall signify our pleasure to the contrary by warrant or writing under our royal sign manual: and we do hereby authorize and command you, the Auditors of the Imprests, and all other officers and ministers whom it doth or may concern, to make and give full and plenary allowance and discharge thereof, and every part thereof, from time to time in his account as Treasurer of our Navy accordingly, and that without expecting any farther order or direction from us in that behalf. And for so doing this shall be your warrant.

"Given at our court of St. James's, the 24th day of June, 1782, in the twenty-second year of our reign,

"ROCKINGHAM.
"ALTHORPE.
"MONTAGUE.

"To the Auditors of our Imprests now for the time being."

Mr. Whitbread. "The next allegation we shall prove, is the appointment of Lord Melville, then the Right Hon. Henry Dundas, to the office of Treasurer of the Navy."

The patent, with the appointment, was now produced, dated the 10th of April, in the 22d of Geo. III. which was read by the clerk of the court, and was couched in the usual terms.

Mr.

Mr. Giles. "We shall now give in evidence, the warrant under the King's sign manual, granting an additional salary to the Right Hon. Henry Dundas, Treasurer of the Navy. I think no other evidence is necessary, as the sign manual authorises the warrant. The patent was found among the papers of the late Mr. Douglas, paymaster to the Right Hon. Henry Dundas."

Mr. Plomer. "I have no objection to this evidence."

Mr. Rose read the document in the following terms:

"GEORGE R.

"Whereas, by letters patent under our great seal of Great Britain, bearing date the the 19th of August, 1782, we were graciously pleased to give and grant unto our right, trusty, and well-beloved counsellor, Henry Dundas, the office of Treasurer of our Navy, Royal Ships, and Receiver General of all sums of money appointed, or from time to time to be appointed, and payable for wages, salaries of officers' servants, and other persons whatever, belonging to our said navy or ships, or any other matter or thing whatsoever, in any manner touching our Navy Royal or Ships, and for the exercise and occupation of the said office, and for and in satisfaction of all wages and fees of three-pence of lawful money, for every pound to be received and paid by the said Henry Dundas, by virtue of his said office; We were further graciously pleased to give and grant unto him by the said letters patent, an annuity or yearly payment of 2000l. And, whereas, it hath been represented unto us, that the said annuity or yearly payment, after deducting all charges, taxes, and expences, thereon, will not produce to the said Henry Dundas more than the sum of 1850l. in each year, or thereabouts. And, whereas, for divers good causes, us hereunto moving, We are graciously pleased that the income of the Treasurer of the Navy, should be augmented, with an additional allowance of 2346l. 6s. 6d. in order to make, together with the said sum of 1850l. the said income to amount in future to the sum of 4000l. Our will and pleasure therefore is, and we do hereby direct, authorise, and empower him, the said Henry Dundas, to take and apply out of such monies as are in or shall come to his hands, or to the hands of his cashier, arisen, or to arise, by the sale of old naval stores, the sum of two thousand three hundred and twenty-four pounds six shillings and sixpence, which, together with the before-mentioned sum of 1850l. will make the said sum of 4000l. which we are graciously pleased to grant to him, clear of all deductions, in full satisfaction of all wages and fees, and other profits and emoluments, heretofore enjoyed by former Treasurers of Our Navy, the same to commence and be computed from the day of the letters patent appointing him to the office of Treasurer of Our Navy, and to continue during his continuance in the said office of Treasurer of Our Navy, or until we shall signify Our pleasure to the contrary by warrant or writing under Our Royal Sign Manual. And we do hereby authorise and command you the Auditors of the Imprests, and all other Our

officers and ministers, whom it may or doth concern, to make and give full and plenary allowance and discharge thereof, and every part thereof, from time to time, on his account as Treasurer of Our Navy, accordingly, and that without expecting any further order or direction from us in that behalf. And, for so doing, this shall be your warrant," &c.

Mr. Giles. "We shall now shew that the noble defendant left the office on the 10th day of April 1783; and this we shall do, by producing the patent under which the Right Honorable Lord Bayning was appointed."

The clerk of the court was proceeding to read the instrument, when the admission of the learned counsel for the defendant, rendered the perusal unnecessary.

Mr. Giles then exhibited the patent, dated the 5th of January 1784, when the Right Honorable Henry Dundas was again appointed to the office of Treasurer of the Navy.

This was also admitted on the part of the noble defendant.

Mr. Giles. "I shall now propose, that either the whole, or a part, of the eight report of the Commissioners of Naval Enquiry be read."

Mr. Rose then read the following extract from that Report:

"The legislature have, in the last session of Parliament, introduced into the office of Paymaster-General of the Forces a regulation, which, as it seems to us, may be applied as beneficially to the office of the Treasurer of the Navy, the custody of the cash applicable in the navy services may be transferred from the treasurer of the Bank to England, and the account only of the receipts and payments be kept in his office; all the sums now received by him may be received by the Bank; sums from the Exchequer may be imprested to the Bank; sums directed by the letters of the different boards to be paid to him, may be directed to be paid into the Bank; all bills assigned upon him for payment may be paid, and all extra payments may be made by his drafts upon the Bank; the payment of the seamen, the artificers and labourers in the yards, and the persons in the Hospital-ships and on half-pay lists, must be carried on in the same manner it is now: these men cannot be paid by drafts, they must have cash; and with that cash the pay clerks must be intrusted, as they are at present, and the treasurer must continue to be responsible for them, as for officers of his appointment and under his controul; but this will be no obstruction to the regulation. The money may be all issued to the pay clerks by the drafts of the Treasurer upon the Bank, according to the requisitions of the Navy Board in like manner, as many of these sums are issued at this day; and upon the death or resignation of a Treasurer, the balances of his cash in the Bank and in the hands of his pay clerks may be struck immediately, and carried over to the account of his successor. In this situation the Treasurer, neither receiving nor paying public money himself, can neither be debtor to nor creditor of the public, except

except as far as he may be responsible for his clerks. On passing his accounts, the bill indorsed or requisition of the Navy Board, is both his authority and voucher for his draft; the draft indorsed is the voucher for the Bank to prove their payment. If these accounts agree (and they ought frequently to be compared together) it is highly probable that they are both right."

The Lord Chancellor. "Do the learned counsel for the defendant require that more should be read?"

Mr. Plomer. "No, my Lord."

Mr. Giles. "We shall read, in point of form, the entry on the Journals referring to this report."

It was read accordingly by Mr. Rose.

Mr. Giles. "We shall now shew from the Journals, that the Right Honorable Henry Dundas brought in a bill for regulating the office of Treasurer of the Navy."

The clerk of the court then read from the Journals the progressive stages of this bill, by desire of the learned and honorable manager, under the dates of the 17th of February 1785, and of the 29th of April, and of the 3d of May, of the same year.

Mr. Giles. "On the 25th of May 1785, the Right Honorable Henry Dundas carried up the bill to the House of Lords, and I produce your Lordship's Journals to prove it."

Mr. Rose also read the extract of the Journals of that date.

Mr. Giles. "We shall not think it necessary to read the Journals as to the progress until the act was passed. We shall now proceed to give evidence to the appointment of Mr. Douglas, as paymaster to Mr. Henry Dundas, and the first proof we shall adduce is the letter of the noble defendant himself."

Lord Melville, having looked at the signature, admitted the letter which contained the appointment of Andrew Douglas, esq. to the office of paymaster under the Treasurer of the Navy.

Mr. Giles. "I shall now call the son and executor of Andrew Douglas, esq. and subsequently produce the will.

Mr. Archibald Douglas sworn and examined by Mr. Giles.

Q. Are you the son and executor of the late Andrew Douglas, paymaster to the Right Honorable Henry Dundas?

A. I am.

Q. Have you any of the papers belonging to your late father?

A. I have not.

Q. What became of the papers?

A. They were all left in my father's house.

Q. Do you know what became of them?

A. I do not know, they were not in my possession.

Q. Did your mother reside in the house in which your father died?

A. She remained for some time there, and then removed to another house.

Mr. Giles. "My Lord, I shall call that lady."

Q. Did you see the papers?

A. No.

Mr. Plomer. Q. Were any of the papers of your father delivered to the noble defendant?

A. None, that I know of.

Mary Douglas sworn and examined by Mr. Giles.

Q. Did the papers of your late husband come into your possession?

A. They did.

Q. Had you any other papers belonging to your late husband excepting those you delivered to the gentlemen appointed to conduct Lord Melville's impeachment?

A. None.

Q. Did you deliver all the papers to those gentlemen?

A. I delivered a box of papers.

Q. Did that contain all the papers of your late husband?

A. All of them.

Cross-examination by Mr. Adam.

Q. When did you deliver the papers to the gentlemen who came for them?

A. I do not recollect.

Q. In what year was it?

Mr. Giles. "There can be no occasion for pressing these enquiries, the managers of the Commons will give the learned counsel any information he requires."

Cross-examination continued.

Q. In what place were the papers kept?

A. They were in the attic story, in a sort of chamber.

Q. Where was the house situated?

A. In Margaret-street, Cavendish-square.

Q. Who delivered the papers to the gentlemen?

A. I ordered a servant to deliver them.

Q. Was the box of papers shewn to you before it was delivered?

A. No.

Mr. Whitbread. "The box is to be produced."

Cross-examination resumed.

Q. Did they take the box away?

A. They did.

Q. Had the box been always in your custody, from the time of your husband's death, till the time it was so taken away?

A. Always.

Q. Do you know the gentleman to whom you delivered it?

A. Yes, I do.

Q. Were you acquainted with the gentleman before?

A. I was not.

Q. How

Q. How came you to deliver the box to them if you did not know them before?

A. I understood they came from a committee of the House of Commons, and a person brought me an order to attend.

Q. Did the gentlemen who came for the box represent themselves to be members of the committee?

A. They did not.

Q. Did you examine the contents of the box before they took it away.

A. No.

Q. Was it locked?

A. Yes.

Q. Did you keep the key of the box?

A. I used to keep it locked up.

Q. Did you give the key to the gentleman to whom you delivered the box?

A. Yes, I did.

Mr. John Winter sworn and examined by Mr. Giles.

Did you examine the contents of the box delivered by the last witness to the members of the committee?

Mr. Plomer (interposing). "Before the witness proceeds, I wish to know if he saw the box delivered by Mrs. Douglas to the gentleman?

A. I did not.

Mr. Whitbread, "I am the person. The box, when delivered, was locked, the key was given to me, and the contents were examined by the witness."

Mr. Whitbread sworn, and examined.

An order was sent to Mrs. Douglas, the executrix of the late Andrew Douglas, to attend the meeting of the committee, the members having been informed that his papers were in her possession. The order was that she should attend the committee. To which she gave answer that she was too ill to attend. The officer of the House waited upon her with the summons. As the day on which this application was made, was that on which the parliament was prorogued, it was thought right that I should go to see if she were in possession of the papers. I went, with another member, to the house, and enquired for the papers of her late husband. She said, that all his public papers were in a deal box on the attic story, and that the room was locked. There we found the deal box, of which Mrs. Douglas had the key; it was put into my possession, and that of my brother member of the committee; we took the box with us, but did not arrive at the House until the committee had broken up. The box was then taken to my house, and I returned with it the next day. I gave the last witness the key to sort and arrange the papers.

Cross-examination by Mr. Plomer.

Q. The hon. manager will excuse my proposing to him some questions. On what day was it?

A. The

A. The day on which parliament was prorogued; I believe it was the 12th of July?

Q. Were these papers in your possession, or in that of the committee?

A. They were either with me, with the committee, or with Mr. John Winter; they were never out of the possession of these persons. Whenever the committee had recourse to books or papers, in all other cases they regularly sent to the person who belonged to them: this was the only case in which papers were under the circumstances I have explained.

Mr. John Winter recalled.

Q. Did you carefully examine the papers in the box?

A. I did.

Q. Did you find among the papers a power of attorney from the Right Hon. Henry Dundas to Mr. Douglas?

A. I did not.

Q. Did you search for it diligently?

A. I certainly did.

Mr. Giles. "After these depositions we shall be permitted to produce an entry made of that power of attorney.

Mr. Adam. "I wish the witness to be asked if he knows of any application made to him by the counsel for Lord Melville for the inspection of that box."

The witness answered in the affirmative.

Q. When was that made?

A. Early in the commencement of the present session.

Mr. Giles. "The application and the answer to it were both in writing I believe."

Mr. Whitbread. "If the counsel will have the goodness to state what was the conduct of the Committee, the managers for the Commons will no doubt readily admit that such was their conduct."

Mr. Adam. Q. Will the hon. manager state the particulars?

Mr. Whitbread. "A letter was directed to me by the Solicitor of Lord Melville, and this letter may be produced, if here now, if not not at a future time. I believe the day after the receipt of this letter, an answer was given to it. The application was, for leave to examine Mr. Douglas's papers. The purport of the answer was, that as soon as the examination had been gone through by the committee, resource might be had to the papers, in the presence of part of the committee.

Mr. Adam. Q. When was the inspection actually had?

A. As soon as possible after the application, I believe.

Q. Was not the solicitor of Lord Melville forbidden, or in point of fact, how soon were the papers examined?

Mr. Winter. A. A very short time after, I think about six weeks from the application.

Q. Did you shew all the papers in the box to the solicitor?

Mr

Mr. Whitbread. A. All the papers were shewn, for which any application was made. The papers were applied for on the day of the prorogation of Parliament, and the committee could not act until the parliament sat again.

Q. There were other papers in the box, besides those submitted to the inspection of the solicitor of Lord Melville?

A. There were.

Q. What became of those papers?

A. They are still in my possession.

Q. Were they removed from the box when the solicitor examined it?

A. They were.

Q. Where were they?

A. They were laid in a room at our office.

Q. Then some of the papers were taken out of the box, and the rest were in the box when Lord Melville's solicitor examined it?

A. Yes.

The Lord Chancellor. Q, Can you swear that the papers you took out of the box, and placed in your room, taken together, were all the papers?

A. Certainly I can.

Lord Eldon. Q. Was any notice given to Mr. or Mrs. Douglas, before the opening of that box?

A. Not to my knowledge.

Lord Suffolk. Q. Did the box from which you took the papers, continue locked while in your possesion, and not in immediate use?

A. Yes.

Mr. Wm. Rose Hayward sworn and examined by Mr. Giles.

Q. Is there a letter of attorney from the Right Hon. Henry Dundas to Mr. Douglas at your office?

A. There is.

Q. Did you make the entry?

A. Yes.

Q. From what did you write it?

A. From the original power of attorney?

Q. How do you know it was the original?

A. It was brought to me as all other powers are.

The Lord Chancellor. "For what length of time did he receive pay under that power from the date of it?"

Q. Did you receive any money on account of the treasurership of Lord Melville, but under the power?

A. No.

Mr. Giles. "Now, my lord, I propose reading the power."
Mr. Plomer interposed to cross-examine the witness.

Q. Did the witness ever pay any money to Mr. Douglas?

A. The form is, for the auditor to direct the payment, and the teller to pay it.

Q. Do you know of your own knowledge, that any money was paid to Mr. Douglas?

A. I know that I wrote upon the order by whom he was to receive it.

Q. How do you know that Mr. Douglas received the money.

A. Orders

A. Orders for payment were given.

Q. Then you do not know if the money were actually paid or not?

A. No, certainly I do not.

Q. What is the date of the power?

A. In 1782, I believe.

Mr. Adam. Q. What power is this? Do you know if the persons whose names are to the power of attorney are living or dead?

Q. I do not.

Mr. Plomer. "Does your lordship think this a competent evidence? There is no proof whatever of any original filed by Lord Melville. There is no proof that any original exists at all. As to the part of payment, your lordship knows, it is no evidence of the power. But is there any proof of this fact? There is no proof of a shilling being received by Mr. Douglas."

Mr. Giles. "When the learned counsel contend that there is no testimony to the appointment of Mr. Douglas, they seem to lay out of the question the letter from Mr. Henry Dundas, nominating Mr. Douglas his paymaster. He could not be appointed paymaster, and others receive the money for his discharge of the duties of the office.

"Your lordship has here before you the person who made the copy of the power, and more than this, you have here the appointment itself. True it is, the witness does not know of the payment of the money to Mr. Douglas, but you have the order for the payment, and you find, that under no other power he could receive this order from the witness. Then besides all this, we have the receipts from the Exchequer.

Lord Chancellor. "The question is not, if by some means or other, Mr. Douglas were paymaster, but if he were constituted paymaster by this power of attorney? It does not appear, whether Mr. Douglas has received any money under the power, and in these circumstances it seems to me, that the managers are not entitled to read the entry."

Mr. Giles. "My lord, the managers can produce to you tomorrow, the attesting witness to the power."

The Lord Chancellor. "That will be material."

Mr. Adam. Q. Do you know the hand writing of Lord Melville?

A. I do not.

Mr. John Winter recalled.

Lord Suffolk. Q. Did you part with the box at any time?

A. The papers for some time remained in the box in my office.

Q. Did the box remain there when you were absent from the office?

A. I examined all the papers before the box was in the office.

Q. And again, did you examine them before they were out of your custody?

A. I did.

Q. Are you able to swear that the papers continued to be in your possession, all the time the box remained with you?

A. Yes

A. Yes, certainly.

Q. At what time did you separate some of the papers from the others in the box?

A. On the morning that Mr. Le Blanc was appointed to come.

Lord Holland. Q. Was Mr. Le Blanc made acquainted with any thing respecting the other papers not in the box?

A. I thought it right to inform him, that there were other papers belonging to different treasurerships, and that they were open to his inspection

Q. Did you see Mr. Le Blanc more than once?

A. No. I think not.

Lord Eldon. Q. Were the papers not shewn to Mr. Le Blanc, excepting on the occasion you have just referred to, always kept in the box?

A. They were.

Mr. Giles. "I shall now bring as a witness, one of the clerks of the Bank.

Mr. Thomas Whittingham, Clerk of the Bank, sworn and examined by Mr. Giles.

A book was put into the hands of the witness.

Q. What are you?

A. A clerk at the bank.

Q. Were you a clerk at the Bank at the time the book was written, which is now delivered to you?

A. I was.

Q. Do you find to that book the signature of Lord Melville, then Henry Dundas, and also that of Andrew Douglas?

A. Yes, on the 8th of August, 1782.

Q. Do you know the hand writing of Lord Melville;

A. I do.

Q. How do you know it?

A. I saw him write this.

Q. For what purpose did Lord Melville and Mr. Douglas sign that book?

Lord Chancellor (interposing). Q. Do you know the hand-writing of Mr. Douglas?

A. I do, but I never saw him write.

Q. Have you corresponded with him?

A. No.

Mr. Archibald Douglas recalled and examined by Mr. Whitbread.

(The book delivered to the last witness was now put into the hands of Mr. Douglas.)

Q. Was that your father's hand writing?

A. Yes it was.

Mr. Giles. Q. For what purpose was the entry signed?

A. It was a power to Mr. Andrew Douglas, for his account with the Bank.

Q. What is become of the original power of attorney?

No

No reply was given.

The Lord Chancellor. "I think the entry may now be read, to see the purport of it."

Mr. Rose then read the entry.

Mr. Thomas Whittingham recalled and examined.

The Lord Chancellor. Q. Is that the book in which such entries are regularly made?

A. Yes.

Q. Is the object of it that the persons at the Bank may know the hand writing of the party?

A. Yes.

Q Is that the way of opening new accounts?

A. The invariable way, my Lord.

Mr. Giles. "We are now going to prove an account signed by Mr. Douglas, stating certain sums that he had received from the Exchequer."

Mr. Standert recalled, and examined by Mr. Giles.

A book was put into the hands of the witness.

Q. Is that the book containing receipts during the paymastership of Mr. Douglas?

A. Yes, it is.

Q. Is there any receipt in it signed by Mr. Douglas, then paymaster?

A. Yes.

Lord Chancellor. Q. Are you acquainted with his hand writing?

A. I never saw him write.

Mr. Archibald Douglas recalled, and examined by Mr. Whitbread.

Q. Is this the hand writing of your father?

(A paper was delivered to the witness.)

A. It is.

Mr. Giles. "This is a receipt, my Lord, of the 2d of November 1782, for 45,000l. received by Mr. Andrew Douglas, as paymaster to the Right Hon. Henry Dundas. I say he received it as paymaster, and made the certificate receiving it in that character."

Mr. Plomer. "This is not the proper way of proving the character in which Mr. Douglas received the money. The character with which he was invested is material to be established, and this must first be proved by legal evidence. Surely it is not to be argued that the receipt of a man is evidence against any one but himself. It is not evidence against the noble defendant in any point of view in which it may be presented."

Mr. Giles. "I must set the learned counsel right in this matter. I do not produce it as a receipt, but as a certificate which Mr. Douglas was bound to make, and which is evidence for the purpose to which I apply it."

Mr. Plomer. "Call it a certificate, or a receipt, it is only a

written declaration, and not being upon oath, it cannot affect a third person in a case of this kind. You must prove every thing against the Noble Lord by testimony upon oath, excepting upon such particular cases in which that form of evidence is dispensed with. This is not proof upon oath, and cannot affect the noble defendant."

The Lord Chancellor. "You must shew that he made that certificate in his character of paymaster, and then your proof will be admitted."

Mr. Giles. "I offer the evidence, having first shewn that Mr. Dundas had appointed Mr. Douglas his paymaster, and in that character it was necessary he should receive the money in the Exchequer; for the Treasurer receives nothing. To receive the money, and to transmit the accounts, is his necessary duty as paymaster. This then I say is the best authenticated evidence, proceeding from Lord Melville himself, for he is Lord Melville, being the representative of Lord Melville. It is the duty of his office to make these acknowledgments, and he thus makes them, and they can be made in no other way.

"It is very unfortunate for the managers that your Lordship should have decided that this book is not evidence against Lord Melville, the book having been sent to the office under Lord Melville's own authority. In this case the usual course is pursued. Lord Melville is bound by his act, if he act in the character of paymaster to Lord Melville.

"For further satisfaction with respect to the evidence, the nature and duties of the office may be explained to their Lordships."

The Lord Chancellor. "For what purpose do you produce the book?"

Mr. Giles. "I produce it, my Lord, to shew that Mr. Douglas did receive the money at the Exchequer."

The Lord Chancellor. "This may be conclusive against Mr. Douglas, the question is if it can be so with regard to Lord Melville."

Sir Samuel Romilly. "My Lord, we have proved that Mr. Douglas was the paymaster; first by a letter, and next by shewing that Mr. Douglas had acted in that character; and I understood that your Lordship was of opinion that a letter of attorney had been executed, and the instrument was couched in the terms contained in the book. In order to make this evidence, I conceive that it was expected of us that we should produce the subscribing witness to the letter of attorney.

"We suppose, that having given our proof according to the constitution of the office, viz. that the paymaster alone receives all the sums for the Treasurer of the Navy, we have, connected with the other facts in evidence, done what is sufficient. All the receipts and payments of the Treasurer are in fact the receipts and payments of the paymaster, and hence we say that proving these by Mr. Douglas is proving them by Lord Melville."

The Lord Chancellor. "It is admitted, that A. B. receives a sum at a public office, and that he gives a certificate. But have you no way by which you can shew his establishment in office excepting by this receipt? Are there no forms of office to testify that in point of fact he was in that character?"

Sir Samuel Romilly. "I am uncertain if I be competent to satisfy your Lordship in that way; but this I know, that the proof we have offered is the only regular mode of proving that for which we contend, and if we attempt to do it in any other manner, we shall do it irregularly. It is by the production of these vouchers that the proof is supplied. The receipt I have in my hand I shall shew to be subscribed by Lord Melville."

The signature was admitted by his Lordship.

Mr. Rose then read the receipt. It was signed Henry Dundas, dated the 10th of January 1786, and the terms were:—"Received from Archibald Douglas, Esq. for account of Andrew Douglas, Esq. late Paymaster, 4755l. being the balance in his hands."

Lord Ellenborough. "Here is a recognition by Lord Melville of Mr. Andrew Douglas as his deputy."

Lord Eldon. "I think it is now proved that Mr. Douglas was the Paymaster, and also by the constitution of the office of Paymaster, that he was to receive the money from the Exchequer; but I would ask the managers if they would consider the receipt to be sufficient to charge Lord Melville with the money?"

Mr. Giles. "My Lord, I can prove that it is so from the constitution of the office, and the managers mean to go the length of contending, that this is proof sufficient of the payment of money to the noble defendant, for the purposes of this prosecution. The present question is not, if this testimony be competent to establish criminality, but merely, if it be admissible evidence. Of itself, it cannot establish criminality."

The Lord Chancellor. "The question is not, if civilly Lord Melville would be responsible for money received by Mr. Douglas, but if the managers can sufficiently establish the receipt of the money by Lord Melville?"

THIRD DAY.

THURSDAY, MAY 1ST.

MR. Giles. "I will now produce the original power of attorney."

Mr. Dyson sworn, and examined by Mr. Giles.

Q. Were you solicitor to the Admiralty in the year 1782?

A. I was.

Q. Were you acquainted with Mr. Andrew Douglas, Paymaster to the Right Honorable Henry Dundas?

A. I was.

Q. Do you recollect being desired by Mr. Douglas to pass a patent?

A. I do.

Q. Does the witness remember providing a stamp for the power of attorney from the Right Honorable Henry Dundas to Mr. Douglas?

A. I do.

Q. Do you remember attesting that power?

A. I have a very slight recollection of the circumstance.

Q. Has the witness any doubt that he attested the power of attorney authorising Mr. Douglas to act as Paymaster?

A. I cannot positively say, but I am inclined to think that I did.

Q. The question is, if you have any doubt of the fact?

A. I can make no other answer.

Cross-examination by Mr. Plomer.

Q. I ask, if any circumstances have recently brought this matter to your recollection, or do you rely upon memory, without having recourse to written papers?

A. It has occurred to me from the paper which has been shewn to me this morning?

Q. Without the assistance of that paper, should you have any memory of the transaction?

A. I should most probably have recollected it without seeing that paper.

Q. Did you before you saw the paper remember it; or rather, were you asked the question whether you recollected it, before the paper was shewn to you?

A. I had given my answer, without any of the managers being concerned.

Mr. Giles. "The managers propose now, to read the entry of the power of attorney made at the Exchequer, conceiving this entry the best proof of its existence."

Mr. Plomer. "In order to do this, they must establish the fact of the power being executed by Lord Melville for the purpose

suggested. We are not now in the case of a witness being shewn his attestation, and declaring, that he had attested the document. In that circumstance, it is enough that the witness, looking at the papers capable of assisting his memory, declare it to be his attestation. In that mode of proof, the instrument is presented to the eye of the court, but here it is not so, we have no signature of the noble defendant: we have no evidence to establish the preliminary fact, whether such a paper did exist or not.

"Here the gentleman will not take upon himself positively to say, that the fact was so. The fact must not be proved by the inclination of his belief, but by what he will take upon himself positively to assert upon oath."

Mr. Adam. "The recollection of the witness is so imperfect, that he will not undertake to swear to the fact, and I trust you will not consider this to be that conclusive evidence to admit the sort of proof the honorable managers are desirous to produce."

Mr. Giles. "The witness says, that before he saw the paper, he gave the same account of it he has now done before your Lordships. Doubtless, an attesting witness of a transaction twenty-six years ago, cannot positively speak to his attestation without seeing his own hand-writing. He therefore adverts to it with that reserve which common honesty requires, and he says, that he has a faint recollection of the business. He will also speak to the place where it was transacted. I do not wish to press this beyond its due bearing, but I think the proof adduced is sufficient."

Mr. Serjeant Best. "This is the best evidence which the nature of the circumstances admits. The rule of evidence does not require what is conclusive, it exacts only that the best evidence be brought which the matter to be proved admits.

"The learned counsel forgets that the witness speaks to the nature of the power at the time of its execution. Indeed, what other power could it be, excepting that now referred to? For it is that power which is necessary to convey to Mr. Douglas the authority with which Lord Melville proposed to invest him.

"Then the memory of the witness is refreshed by certain papers. Is there any objection to this? This is the usual course, the ordinary assistance given to a witness; but before he was shewn the papers, he did state, that he remembered attesting such a power.

"Then, Mr. Douglas acted as the Paymaster of Lord Melville. We need not cite cases to shew, that if a person act in that particular character, it is evidence of his sustaining that character.

"In addition to this, Lord Melville writes a letter, in which he describes this gentleman as his Paymaster. In point of fact he acted as Paymaster, and could not, under the circumstances, so act, without sustaining that character."

The Lord Chancellor. "What distinct acts have you shewn to make it appear that he was the Paymaster?"

Mr.

Mr. Giles. "My Lord, we have the most satisfactory proof as to this particular. As it now stands, I think the clerk of the Treasury who produced the book, spoke of Mr. Douglas as having acted in that situation, but if he did not the clerk of the Bank did."

The Lord Chancellor. "I would ask, what is the date of the power of attorney?"

Mr. Giles. "It is dated, my Lord, on the 24th of August, 1782."

The Lord Chancellor. "What is the date of the letter?"

Mr. Giles. "It is dated on the 26th of August, in the same year."

By the desire of the Lord Chancellor, the commencement of the entry was read.

The Lord Chancellor. "I wish to know if the entry you propose to read of this power, has the name of Dyson as attesting witness, and if he is described as solicitor to the Admiralty?"

Mr. Whitbread. "It is entered on the 30th of August, 1782."

Mr. Dyson recalled.

Lord Ellenborough. Q. You say you recollect preparing the paper, do you also remember, that you were attesting witness to it?

A. My answer went to the attestation.

Lord Eldon. Q. Do you recollect the contents of the power?

A. I understood it was to authorize the Paymaster to draw, and to enable him to do the duties of his official situation.

Lord Suffolk. Q. Do you think the power could have been drawn up for any other purpose?

A. No, certainly not.

Mr. Giles. "My Lord, we have abundant evidence, that Mr. Douglas acted as Paymaster, but we do not want to anticipate this proof. We can shew it by letters from Lord Melville, and by much other testimony equally conclusive."

Mr. Plomer. "The honorable managers seem to me to confound two things, in themselves perfectly distinct; the character of this person as Paymaster, and all he might do, although never authorized to do any thing beyond it; and the question now is, if he had, added to the character of Paymaster, any other authority of any kind from Lord Melville. That he was the Paymaster, and acted as such, is a matter I do not dispute, but the question is, if he were authorised by Lord Melville by any power but that conferred upon him as Paymaster.

"This is a separate and independent enquiry; and on the other side, they have produced no evidence to this point. Did he ever act, in any one thing, which he might not have done alone, in his character of Paymaster? Not a tittle of proof to this has been adduced.

"In order to prove, that besides his power as Paymaster, he was the authorized attorney of the noble defendant, they must shew,

shew, that the instrument by which this power was given actually existed, and was executed by Lord Melville.

" I did suppose, that the witness might have had his recollection refreshed by that paper, but after all this assistance had been given, it appears to me, that the witness has no more than a doubtful recollection, not a positive assurance of the fact.

" If all the facts in the case were attempted to be proved by the same uncertain testimony, and they had no witnesses but such as resembled Mr. Dyson, would you pronounce a verdict of guilty upon the noble defendant?

" You must have positive testimony, before you can convict any man. It is said, that the rules of evidence require nothing impossible, and that they have given reasonable evidence. The rules of evidence do not vary by distance of time, or by the difficulty of procuring it. In the case of the death of a witness, they will not necessarily be let into secondary evidence; the evidence dies with the witness, and you have no means of supplying it. If the honorable manager supposes we have treated the witness improperly, he is extremely mistaken: we only say this, that after the best memory he can exercise, it ends in doubt, and doubt will not establish the fact in a criminal proceeding."

The Lord Chancellor. " If any noble Lord wishes to have farther deliberation on the subject, he will say so. I have formed my opinion, and the question is this, if upon the materials in proof, this entry in the book of a power of attorney, shall, or shall not be read. Whether it can lead ultimately to affect Lord Melville, is not the question, but if upon the evidence it may be read. This entry had an original. The first point is this, Mr. Douglas died, his papers came into the possession of his widow, the original of this power, after diligent search, cannot be found, but an entry is produced, dated the 24th of August, 1782, which contains a power of some sort. Of what sort the book will explain, and I ask the question, if the entry appeared to have the attestation of the witness, or if it had not, it should not be read.

" Then there is a letter from Lord Melville, not referring to the power. This is dated two days posterior to the entry, viz. on the 26th of August, 1782, and the letter states, that Mr. Douglas was constituted Paymaster.

" It was also proved before Dyson was presented, that there was an entry in the book of the Bank, like that in a private bankers, where the party put down their names to give security, as far as may be, against the consequences of any fraudulent imitation of the hand-writing.

" Dyson is then called, and he is not shewn his own attestation, for the original is not produced to refresh his memory. Suppose a person in the situation of an attorney's clerk has attested five hundred instruments, and being in court, is asked, " Is that your hand writing?"—" Yes." He remembers nothing of the transaction

action to which his attestation appears, but he says, "Conscious of my own integrity, I know I could not have subscribed that paper, unless I had seen the signature of the party applied to it,

"Then the question is, does Mr. Dyson's evidence go far enough, coupled with the circumstances, to have the entry read? He says, he cannot swear positively. He does not say he had no doubt. He is then asked by Mr. Plomer this proper question:—'Had you any original recollection, or was it brought to your mind by the paper shewn? I do not think it would carry the matter, if his first impression were produced on the inspection of the paper, but this is stronger, he states an original recollection, which is fortified by the paper.'

"Under these circumstances, unless any noble lord think the matter requires further consideration, I shall give my opinion, that the entry ought to be read."

Mr. Rose then read the entry, which purported to be a copy of the power of attorney under which Mr. Douglas was appointed Paymaster by Lord Melville.

The attestation was also read, to which the name of Dyson appeared.

Mr. Giles. "We are now, my lords, to state the situation and duties of the Paymaster of the Navy; for although these appear in the reports before you, it will be more correct, and more satisfactory, to receive information from a person acquainted with the office."

The evidence I have now to produce, is in support of the first and tenth charges. The first charge is comprehended in the tenth, the latter being only an extension of the former. This evidence will relate merely to the transactions before the passing of the act for regulating the office of the Treasurer of the Navy."

Mr. George Fennell sworn and examined by Mr. Giles.

Q. Are you Accountant of the Treasurer of the Navy?

A. I am.

Q. How long have you held a situation in the Navy Pay Office?

A. Since the year 1773.

Q. How long have you been accountant?

A. Since 1788.

Q. Are you acquainted with the duties of the Paymaster of the Navy?

A. I am, my lord.

Q. Did they not come under your observation as accountant?

A. No.

Q. How then are you acquainted with the duties?

A. Having been long in the office.

Q. Does the Paymaster of the Navy superintend the departments of the office?

A. Generally.

Q. Did he before the act respecting the office of the Treasurer of the Navy, receive the money from the Exchequer?

A. Yes.

Q. Does

Q. Does the witness know how many sub-accountants there were in the Navy Pay Office before 1785?

A. There were three in town.

Q What are the sub-accountants, how do you describe them?

A. There is a chief clerk and two cashiers.

Q. Were those who were officers of the Navy Pay Office, the persons concerned in making small payments?

A. Yes.

Q. Did the Treasurer of the Navy, or the Paymaster make small payments?

A. They did not.

Q. Does the witness know if it is the duty of the paymaster to transmit money from the Exchequer, and then to apply it to the Navy Pay Office, and to give a certificate of the sum so received?

A. Yes, to the Navy Office.

Q. Do you, of your own knowledge, know that to be the course?

A. Yes.

Q. Is the Navy Board a superior Board?

A. Yes.

Q. Does the Treasurer of the Navy ever receive or pay money himself, as Treasurer of the Navy?

A. No, not that I know of.

Q. Could he make payments himself before the year 1785, without your knowledge?

A. I was not accountant then.

Q. Were you accountant during the first treasurership of Lord Melville?

A I was accountant at the time those accounts were passed.

Q. Did you make up the accounts?

A. Yes.

Q. Did it appear that the Treasurer had received or paid money, as Treasurer of the Navy?

Lord Ellenborough rose to object to the examination of the witness, as to the contents of papers.

Cross examination by Mr. Plomer.

Q. What was your situation from 1782 to 1785?

A. I was junior clerk?

Q. Had you in that inferior department any knowledge or experience of the acts of the Treasurer and Paymaster?

A. Not particularly.

Q. What knowledge has the witness now of the duty of the Paymaster to transmit certain papers to the Navy Board?

A. I know it has been done.

Q. Of your own knowledge?

A. Yes.

Lord Eldon. Q. According to your knowledge, is the Paymaster of the Treasurer of the Navy appointed by power of attorney, or how?

A. I do not know.

Q. Do you know if the Paymaster can receive any money from the Exchequer, unless he has authority from the Treasurer of the Navy for that purpose?

A. I do not know.

Mr

Mr. Hayworth called and examined by Mr. Giles.

Q. Can the Paymaster of the Navy receive money, unless under a power of attorney from the Treasurer?

A. Certainly not.

Mr. Osborne Standert recalled, and examined as follows:

Q. What situation do you hold in the Navy Office?

A. Check-clerk for examining the Treasurer's accounts.

Q Do you know whether it be the duty of the Paymaster of the Navy, when he receives money at the Exchequer, to transmit a certificate receipt and some document to the Navy Office of his having so received the money at the Exchequer?

A. I conceive it to be so, but I do not know it from authority.

Q. Is it the constant practice of the Paymaster of the Navy so to do; to send a certificate of the money having been received at the Exchequer?

A. It is.

Q. Where does he send it to?

A. To the Navy Board.

Q. Is the Navy Board the superior Board?

A. I think it is.

Q. State for what purpose that certificate is transmitted to the Navy Board?

A. To acknowledge the receipt of the sums which the certificate contains.

Q. Does that acknowledgment enable the Navy Board to act upon it?

A. It does.

Q. In what way do they act upon it?

A. By assigning bills out of the sums which are received.

Q. Do you mean by assigning bills upon the Treasurer of the Navy?

A. Upon the Treasurer of the Navy.

Q. Do the Navy Board ever assign any bills for payment upon the Treasurer of the Navy, until they have received such certificate from the paymaster?

A. No.

Q. Is the transmission of the certificate of the receipt of the Navy Board, a necessary preliminary to the assignment being made?

A. Certainly.

Cross-examined.

Q. Whether in drawing for money, or assigning bills, the Board are in any measure influenced by applications from the Treasurer?

A. They are influenced entirely by the Navy Board, and not by any application from the Treasurer.

Q. Does the drawing for money upon the Exchequer in favour of the Treasurer, originate with the Treasurer, or with the Boards—the Navy, and other Boards?

A. With the Boards.

Q. Does the amount of the balance at any time in the Treasurer's hand, originate from the acts of the different Boards?

A. Certainly.

Q. Uninfluenced altogether by the Treasurer or Paymaster?

Lord Chancellor. Q. Is that which you have stated to the House in answer to the questions of the honourable manager the invariable course of office?

A. It is.

Q. Do you know it to be so?

A. I do.

Lord Stanhope. Q. Whether the answer you have last given applies to the period previous to the passing of the act in 1785?

A. It applies to all cases before and subsequent.

The witness was directed to withdraw.

The managers for the Commons then proceeded to read from the book which they stated contained the certificates transmitted by the Paymaster to the Navy Board, an entry of a certificate signed by Mr, Douglas, as Paymaster, in his official capacity, to shew that such certificate was so transmitted.

The evidence was objected to by Lord Viscount Melville.

Mr. Osborne Standert was then called again and was examined as follows:

Q. By a Peer. When a draft is made on theExchequer from one of the Boards alluded to by you in your last answer, what is the authority either from the Treasurer of the Navy, or from his Paymaster, by virtue of which the Board draws on the Exchequer?

A. The Board never draws on the Exchequer, but always on the Treasurer of the Navy; the Navy Board writes a memorial to the Treasurer of the Navy, to solicit at the Exchequer certain sums that are required for the service; so it is through the medium of the Treasurer, not immediately to the Exchequer.

Q. Have you seen the certificate, whether it purports to be a certificate of a Paymaster, or a certificate to a person acting under a power of attorney?

A. I have the certificate now before me, which is signed by Andrew Douglas, who acted at that time as Paymaster to the Treasurer of the Navy.

Q. From a Peer. Is it his certificate that he has received it as attorney, or that he has received it as Paymaster?

A. He does not give his certificate in any capacity, he merely signs his name,

Q. By a Peer. Whether it consists with your knowledge that when the accounts of the payments, in a particular period are passed, the Treasurer swears to the accounts, and if the accounts of the period when this payment was made to Mr. Douglas have been passed, whether the Treasurer of that period must not have sworn to the accounts?

A. That does not come within my knowledge.

Q. By a Peer. Do you know whether the accounts of that period have actually been passed?

A. The accounts of the first Treasurership have been passed.

Q. Of that period to which that certificate refers?

A. The account in the first Treasurership is passed.

The witness was directed to withdraw.

Mr.

Mr. Fennel was again called in and examined as follows:

Q. By a Peer. Whether it consists within your knowledge one way or the other, that the accounts of the first Treasurership of Lord Melville have or have not been passed?

A. The final account of the first Treasurership was delivered to the auditors for that purpose, in February, 1805. I have heard that they are passed, but I do not know it.

Q. From a Peer. From whom did you receive your orders, with regard to the duties of your office?

A. From the Treasurer of the Navy.

Q. Are those orders delivered to you in writing?

A. No.

Q. How is this communication made?

A. Verbally.

Q. Whether the verbal communications are made before witnesses?

A. I do not remember any such circumstance.

The witness was directed to withdraw.

The managers for the Commons and the counsel for the defendant were then informed that the evidence was admissible for the purpose proposed; whereupon an entry in the said books was read as follows:

6th of November 1782.

Received at his Majesty's Exchequer, in money, out of the following funds, the sum of 45,000 for the services following, viz.

£23,645	2	7	out of the money paid into the Exchequer by by Frederick Vane, Esq. Treasurer of Chelsea Hospital; and	
21,354	17	5	in money out of the sinking fund, Anno 1782.	
45,000	0	0		

On the head of wear and tear.

To pay interest on bills of Exchange wages -	£30,000
To pay bounty imprests and other services -	15,000
	45,000

ANDREW DOUGLAS.

The following entries from the same book were also read.

22d of November, 1782.

Received at his Majesty's Exchequer, in money, the sum of 50,000l. for the undermentioned services, out of the contributions to annuities, Anno 1782.

On the head of wages.

To pay-ships and recalls - - -	£40,000
To carry on recalls on ships' books paid in the treasurership of Mr. Barrè - - -	10,000
	50,000

ANDREW DOUGLAS.

Navy Pay Office, 19th of December, 1782.

Received at his Majesty's Exchequer, in money, out of contributions to annuities, Anno 1782, the sum of ninety-three thousand eight hundred and thirty pounds, six shillings, and tenpence, for the services following, viz.

On the head of wages.			
To pay bounty money and other services - -	£10,000		
To pay ships and carry on recalls in the present treasurership	20,000		
To pay ditto in Mr. Ellis's Treasurership - -	10,000		
To pay for subsistence of American prisoners - -	2,000		
To pay for subsistence, &c. of foreign officers, &c. &c. detained in England - -	15,000		
To pay one quarter's salary to commissioners, &c. of sick and wounded, due the 25th of December, 1782 - -	830	6 10	
			57,830 6 10
On the head of wear and tear.			
To pay imprests and bills of Exchange due 15th and 17th inst. - -			25,000
On the head of ordinary.			
To pay quarter's salary to the Lords of the Admiralty, Commissioners, and officers of the Navy, due 25th inst. - - -			11,000
			£93,830 6 10

ANDREW DOUGLAS.

Mr. Osborne Standert recalled, and examined as follows:

Q. From a peer. You are supposed to have said that the Treasurer of the Navy did not receive any money at the Exchequer himself, but that it was always received by his paymaster under a power of attorney by him. Have you said so?

A. Yes.

Q. Is it the usual course for the Treasurer of the Navy to receive money for the public service in his office through the paymaster, constituted his agent by power of attorney?

The witness was directed to withdraw.

Mr. John Cunningham was called in, and being sworn, was examined as follows:

Q. Are you a clerk in the Bank of England?

A.

A. I am one of the three clerks appointed at the Exchequer on account of the Bank of England.

Q. State for what purpose you attend on the part of the Bank of England at the Exchequer?

A. To receive all monies paid into the receipt of the Exchequer, and to pay all monies issued out of the Exchequer, with very few exceptions.

Q. Is it your duty, attending as clerk from the Bank at the Exchequer, to pay the money which is ordered to be imprested to the Treasurer of the Navy, or to his paymaster?

A. We pay the money to the Treasurer of the Navy in consequence of an order which we receive from the Teller's office, from whence the money is to be issued.

Q. Do you pay the money to the Treasurer of the Navy, or to his paymaster?

A. To the Treasurer of the Navy or to his representative.

Q. In what mode do you pay the money either to the Treasurer or to his representative?

A. The Treasurer usually takes credit for the whole sum to be so issued; but sometimes it happens that he chuses to have a part in bank notes, in which case we give him credit for the remaining sum, after having paid him so much in Bank notes.

Q. Do you mean by *we* the Bank of England; that the Bank of England give him credit for so much as he does not take in Bank notes?

A. We attend on account of the Bank of England: the money was placed by us in the Bank book for the Governor and Company of the Bank of England. I conceive that we represent the Bank of England when we are there, and whatever we do is on their account.

Q. Do you know this book?

A I know it perfectly well, and have occasionally written in it.

Q. Do you recollect ever giving credit to Lord Melville as Treasurer of the Navy, or paid any money upon the application of his paymaster, Mr. Douglas?

A. I think I do.

Q. What book is that you now hold in your hand?

A. This is the Treasurer of the Navy's Bank book wherein the credits are entered.

Q. Are all sums which the Treasurer receives at the Exchequer, and is credited for at the Bank, entered in that book?

A. They were a few years back, at the time when credits were given there.

Q. The question is to the period antecedent to the act of parliament?

A. Previous to the act of parliament the credits were entered in this book.

Q. In whose custody was that book kept?

A. In the custody of the Treasurer, I apprehend.

Q. By counsel. Did you ever see it in the custody of the Treasurer?

A. No; but only of his representative.

Q. By the managers. Who produced that book to you when you were at the Exchequer to have the money credited to him?

A. The Treasurer's representative, who came to receive the money, usually brought the book with him; I mean the person appointed by the Treasurer of the Navy to transact that business at the Exchequer.

Q. Was that person at that time the late Mr. Douglas?

A. Mr. Douglas used to attend the Exchequer for that purpose.

Q. Refer to the entry in that book of the 6th of November 1782.

Q. By a Peer. First ask the witness whether he has seen that book from time to time in the possession of Mr. Douglas in the character of paymaster to Lord Melville.

A. To the best of my belief I have.

Q. By a Peer. Look at the book: can you swear you have?

A. I have no doubt about the book.

Q. After the credit was entered in that book, was it returned to Mr. Douglas the paymaster of Lord Melville.

A. I apprehend it was returned immediately.

Q. Did you, when you made entries of credits in that book, so return it?

A. Immediately; as soon as the entry was made I returned the book.

Q. By a Peer. What is your reason for saying you apprehend it was returned? What doubt have you upon it?

A. I have no doubt at all about it.

Q. Before the year 1785, and while Mr. Douglas was the representative of Lord Melville, was it in the course of business for him to carry that book which you have in your hand to the Exchequer, to have his credits entered, to have it returned to him, and then to carry it to the bank for a similar purpose, and have it returned to him there?

A. Whenever they received money, they usually brought the book with them to the Exchequer, and there they received credit for the money, or a part in credit, whichever they pleased, and the remainder in bank notes.

Q. Was that book returned upon those occasions to the person who brought it?

A. It was immediately returned to the person who brought it.

Cross-examined.

Q. Is the entry in question in your hand-writing?

A. No, it is not.

Q. Is it among the entries that belong to the Bank to make; amongst those that were made at the Bank?

A. It appears to be amongst the entries made at the Exchequer.

Q. By managers. By whom?

A. By either myself or by one of those two who attend with me.

Q. Who are those two?

A. Bank clerks as well as myself.

Q. By counsel. Have you, independently of that entry, any recollection of that fact?

A. I can only say that I have not the smallest doubt of it; but as to an immediate recollection, I cannot undertake to state that, owing to its being so many years back.

Q. Is that confident belief of the fact which you express derived entirely from the entry in that book?

A. It does not immediately arise from the entry in the book, but from some recollection of the transaction at the time.

Q. Could you, without that book, have recollected either the sum, or date, or any particulars respecting it?

A. I could not undertake to do that.

Re-examined.

Re-examined.

Q. Will you look at the next entry, the entry of the 23d of November, 1782, and inform the court whose hand-writing?

A. This is the hand-writing of one Mr. Reuben Ettie, who is now dead.

Q. Was he one of the Bank clerks who attended at the Exchequer at that time?

A. He was.

Q. In whose hand-writing is the entry you refer to of the 6th of November?

A. In the same hand-writing.

Q. Are you well acquainted with the hand-writing of Mr. Reuben Ettie?

A. Perfectly well with both.

Q. Refer to an entry of the 19th of December, 1782, in the same book. In whose hand-writing is that entry?

A. In the same hand-writing.

Q. Have you ever made an entry of the same description in the book yourself?

A. Two or three entries; I believe there are two entries of my making of the 8th of November, 1782. I made a credit to the Treasurer of the Navy for 39,000l.

The witness was desired to withdraw.

Mr. John Winter re-called, and examined as follows.

Q. Do you know that book?

A. I do.

Q. Have you had possession of that book?

A. I have.

Q. Where did you find that book?

A. Amongst the papers of the late Mr. Douglas, in the possession of his widow.

Q. Has it been in your custody ever since?

A. It has.

Mr. Cunningham, at the desire of the counsel for Lord Melville, was again called in, and examined as follows.

Q. Whether the proper custody of the book was that of Mr. Douglas, or ought it to have been in the Bank?

A. Whenever the book is taken from the Exchequer we know nothing more of it officially; because any individual can bring his bank book, and receive a credit at the Exchequer for the money issued to him, when so done he takes the book, and we see no more of it till he comes to receive again.

The title of the book was then read; it appeared to be in the following form.

"Old

"Old account of the Right Honorable Henry Dundas, Bank, 1782—Dr. the Bank of England, with the Right Honorable Henry Dundas, creditor."

The subsequent entries were then read.

1782.			
Nov. 6th.	To Mr. Beldam,	R. E. - - -	40,000l.
22d.	To Mr. Willis,	R. E. - - -	47,000l.
Dec. 19th.	To Ditto.	Ettie. - - -	90,830l. 6s. 10d.

Q. Did you attend as clerk of the Bank at the Exchequer on the 6th of November, 1782?

A. I did.

Q. Did you pay to the Paymaster of the Navy any sum in bank notes as a part of the sum that he was to receive that day at the Exchequer?

A. Yes, 5,000l. in bank notes.

Q. State the date, the number, and the sum of each note. What is the book you have in your hand?

A. This is the book in which we enter all notes that are issued from the Exchequer, on account of the Governor and Company of the Bank of England.

Q. Is the entry to which you are called upon to refer, in your own hand-writing?

A. It is.

Q. State the dates, the numbers, and the sums of the notes you paid to Mr. Douglas on the 6th of November.

A. No. 9. 1000l. No. 10. 1000l. No. 11. 1000l. No. 12. 1000l. No. 13. 1000l. all dated the 24th of October, 1782. 5000l. together.

Q. Is the note you now hold in your hand one of the notes you paid on the 6th of November to Mr. Douglas?

A. I have no doubt but it is.

Q. What number is it?

A. Number 12.

Q. Look at the entry on the 22d of November, 1782, in the same book, and state whether you on that day paid any, and what sum in bank notes to Mr. Douglas.

A. On that day we paid to Mr. Dundas.

Q. By counsel. Is that entry in your hand-writing?

A. It is; we paid 3,000l. on the 22d of November to Lord Melville.

Q. By a peer. Are you able to ascertain, by the entry or otherwise, that that 3,000l. was paid to Lord Melville, or was paid to Mr. Douglas?

A. I apprehend it was paid to Mr. Douglas. I never saw his Lordship at the office.

Q. By the managers. State the dates, the numbers, and the sums of the notes which you paid on the 22d of November.

A. The notes were paid on the 22d of November, 1782.

Q. By counsel. Is that entry your hand-writing?

A. It is.

Q. By the managers. What are the dates of the notes?

A. The 7th of November, 1782.

Q. What

Q. What are the numbers?

A. No. 212, 213, and 214, each of 1000l. in value.

Q. Look at that note; is that one of the notes which you paid on that day?

A. I have no doubt but it is; it is No. 212.

Cross-examined.

Q. Does it appear upon your book that those notes paid on the 22d of November, were paid to Mr. Douglas, because you say you apprehended so; does it appear from the book that it was so?

A. The notes are written off in the name of Mr. Dundas; but, I apprehend, that Mr. Douglas received them.

Q. Have you any recollection whatever of the fact?

A. I have no doubt at all of the transaction.

Q. Have you any memory of the transaction, Independent of the book?

A. I cannot say that I immediately recollect the transaction.

Q. What is your reason for saying you have no doubt of the transaction?

A. I have no doubt of it, because it is my own act and deed.

Q. What is your reason for saying you paid it to Mr. Douglas?

A. Only because Mr. Douglas usually attended on the business.

Q. Whether the other entries you speak to do not specify that the payments were made to Mr. Douglas personally?

A. Wherever Mr. Douglas' name appears in the book, he had the notes.

Q. Do those entries contain upon the face of them that the payments were made to Mr. Douglas? Turn to the entry of the 6th of November.

A. That on the 6th of November is entered in the name of Mr. Douglas.

Q. Can you explain why the entry in that case should contain the name of Mr. Douglas, and in another the name of Mr. Dundas?

A. It sometimes happens that both names are made use of.

Q. By the managers. Were the names indiscriminately used?

A. They were usually written off in the name of the person who received the notes.

Q. In fact were those payments of the 6th, and the other of the 22d of November, made on account of the Treasurer of the Navy?

A. No doubt they were.

Q. By counsel. Whether, independent of the book, you have any recollection of any instance in which a payment was made to Mr. Douglas, personally, and it was entered under the name of Mr. Dundas?

A. I do not immediately recollect any.

Q. By a peer. Could you have paid the money either on the 6th of November or the 22d to any third person, to any person but Mr. Dundas or Mr. Douglas?

A. Not unless he came from the Treasurer of the Navy's office.

Q. Should you have paid it to any person if he had stated that he came from the Treasurer of the Navy, though it had not been Mr. Douglas?

A. Yes, our authority is derived from the tellers of the Exchequer, by whose authority we give credit to the Treasurer of the Navy.

Q. If either the Treasurer in person, or any person that appeared to be authorized by him, came for money upon the credit of that Treasurer, you would have paid it?

A. Provided he came from the Tellers office to receive on account of the Treasurer, we should pay him the money.

Q. By the managers. What authority should you have demanded from any person who had come, stating himself to be deputed by the Treasurer of the Navy?

A. Provided he brings the bank book, we ask no questions of that sort.

Q. What bank book do you mean?

A. The Treasurer's bank book; any person bringing this book with him, with an order from the tellers of the Exchequer, would immediately receive credit, or part in bank notes, as he thought proper.

Q. Whether the person to whom you made these two payments of the 6th and 22d of November, had in fact, that book in his possession at the time you made those payments to him?

A. He brought the book with him.

Then another book was shewn the witness, and he was asked what book is that?

A. It is the bank note book.

Q. Is that of the same description as the book you had last in your hand, the bank note book?

A. Exactly the same.

Q. Is the entry of the 19th of December in your own hand-writing?

A. It is not.

Q. In whose hand-writing is that entry?

A. I believe Mr. Ettie's.

Q. Do you know that to be Mr. Ettie's hand-writing?

A. To the best of my knowledge and belief it is.

Q. Was Mr. Ettie at the Exchequer on the 19th of December, at the time that entry was made?

A. No doubt he was.

Q. And you were at the Exchequer also?

A. I apprehend I was, but I cannot take upon myself to say that.

The counsel for Viscount Melville objected to the admissibility of this entry.—The witness was asked

By a Peer. Q. You say you never saw Lord Melville at the Exchequer yourself?

A. Not that I know of.

Q. Do you remember during the period you are speaking of, when Mr. Douglas was Paymaster, any other person besides him bringing that Bank book?

A. I believe there have been instances of another person bringing the book.

Q. Do you remember instances of other persons bringing the Bank book during Mr. Douglas's time besides himself?

A. I cannot charge my memory with that, but I believe it to be so.

By counsel. Q. If other persons had come with the Bank book to receive the money on account of the Treasurer professing to come from him, would it not have been entered in the name of Mr. Dundas or Mr. Douglas, and not in the name of the individual who came to receive it?

A. The payment would have been in the name of the person receiving it; that is the usual practice.

By a Peer. Q. How does it happen, that in the entry of payments in the name of the person receiving them, Mr. Dundas's name should have found its way here?

A. When the name of Mr. Dundas has been entered, it has been to correspond with the credit part of the sum which was issued on that day.

By a Peer. Q. Under what circumstances can it be for the purpose of making this credit correspond, when it appears at the same time that Mr. Dundas's name is entered when he had not received the money, and at another time the person's name is entered, who actually did receive the money?

A. It was quite an usual thing, the credit went regularly to the Treasurer's account; but the Bank notes are frequently written off in the name of the person who came to receive them?

By a Peer. Q. It is then to be understood, that whenever Mr. Dundas's name appears there, the payment was not made in Bank-notes, and that when the payments were made to other persons, they were made in Bank notes?

A. When there were no Bank notes paid, Lord Melville's name only appeared as the creditor.

By a Peer. Q. Whether when Lord Melville was first appointed Treasurer of the Navy, you would have credited his account at the Bank, without having a power of attorney authorizing you for that purpose?

A. We do not give any credit at the Bank, only at the Exchequer.

By a Peer. Q. Is it to be understood, that when the entry appears in the name of Mr. Dundas, the entry was so made under that name in consequence of a credit being transferred, and that in those cases Bank notes were not delivered, but that the entry in another name, was when Bank notes were delivered as part of the payment.

A. We give credit in consequence of an order which we receive from the tellers of the Exchequer; if the person who receives the money wishes to have a credit for the whole, the sum is immediately entered in this Bank book; but if he chuses a part in Bank notes, then the remainder only is carried to the credit of the Treasurer's account.

By a Peer. Q. Whether there is any entry in the banking book to the credit of Mr. Dundas, other than as Treasurer of the Navy?

A. I can only answer to the credits which are made at the Exchequer.

Q. Confine your answer to the credits made at the Exchequer. Were there any other credits at the Exchequer made to Mr. Dundas than as Treasurer of the Navy?

A. None other that I know of.

By a Peer. Q. You have stated that on the 22d of November you paid 3000l. in Bank notes, the dates of which notes and the numbers you have given to the court, do you know whether those sums were entered in the name of Mr. Dundas or Mr. Douglas, or either or them?

A. I must beg leave to refer to the book. On looking at the book, I see that on the 22d of November, 1782, 3000l. was paid in Bank notes, and written off in the name of Mr. Dundas.

Q. Can you give any reason why those three notes of 1000l. each were written off in the name of Mr. Dundas, when you say that you never saw Mr. Dundas at the Exchequer, and therefore the payments could not be made to him?

A. No particular reason; it was a usual thing, for them to be

written off in the name of the Treasurer of the Navy, or of the person who represented him; it was sometimes in one way, and sometimes in another.

By a Peer. Q. Whether, under whatever name those entries were made, they all understood by you to have been made on account of the Treasurer of the Navy?

A. Undoubtedly.

By a Peer. Q. Whether the entry in the Bank book on the 6th November, 1782, does not bear on the face of it to be an entry to the credit of the Treasurer of the Navy, as well as the person to whom the notes were paid?

A. Exactly the same; it all goes to the Treasurer's account, either in the shape of a credit or in Bank notes.

Mr. William Heald was called in, and being sworn, was examined as follows.

Q. Are you a clerk in the banking house of Messrs. Drummonds?

A. Yes.

Q. Were you a clerk in that house in the year 1782?

A. I was.

Q. What is the book which you have before you?

A. We call it the waste book.

Q. Have you written in that waste book at any time?

A. I have.

Q. Refer to an entry the 29th of November, 1782. Are the entries made on that day, or any of them in your writing?

A. They are.

Q. Is there an entry on that day to the credit of the Right Honorable Henry Dundas?

A. There is.

Q. Is that credit written in your hand-writing?

A. It is.

Q. What is the amount of that credit?

A. Six hundred pounds.

Q. Is there a debit on that day to the Right Hon. Henry Dundas?

A. I do not know that there is.

Q. How was that 600l. paid?

A. By a Bank note for 1000l. letter K, No. 212.

Q. Who did you receive that Bank note of?

A. By the entry it appears from Mr. Dundas; but that I cannot swear positively to.

Q. From the nature of that entry in the common course of business in your house, whether you apprehend, believe, or know, that Mr. Dundas must be the person who so paid that note?

A. It would appear to have been brought by Mr. Dundas, but I cannot swear so; it might be from some other person immediately from him, and not by his own hands.

Q. If the payment had been made by any other person on account of Mr. Dundas, other than Mr. Dundas himself, would the entry have been precisely what that entry is?

A. No; the name of the person would have stood at the top of the entry.

Q. Does

Q. Does any name now stand at the top of the entry, or any name appear but that of Mr. Dundas?

A. None.

Q. What became of the 400l. balance of the 1000l. note?

A. I paid the difference in Bank notes and cash.

Q. To whom?

A. That I cannot take upon me to say.

Q. Was it to the person who appeared making the payment according to the entry which you have stated to be contained in that book?

A. It was to that person, it might be to Mr. Drummond: he might have given me the note, and I might have returned the money to him. I had instructions to give credit for 600l. and to return the difference in Bank notes and cash.

Q. You know that this credit was entered to Mr. Dundas for 600l. by yourself, and that the charge was given of the Bank notes to the person who produced the note which is the subject of that entry?

A. I apprehend that to be the case.

Q. Does this note now in your hand for 1000l. corrrespond with the note entered in that book, a part of which was carried to the credit of Mr. Dundas?

A. The number and the sum correspond.

Q. Is the number and the sum the whole of the entry?

A. It is.

Q. Is there any other book belonging to the house of Messrs. Drummond in which any entry is made respecting this note?

A. There is.

Cross-examined.

Q. Whether, independent of the book that lies before you, and the entry it contains, you have any memory of the transaction to which you have spoken?

A. None.

Q. If the money had been given you, or the note brought to you by Mr. Drummond, whose clerk you were, with directions to make an entry in that book you yourself not having taken any part in the transaction at all, would the entry be the same in that book that it is now?

A. Yes.

Q. Can you now say with any certainty, whether the transaction took place with yourself, or whether it was through the medium of Mr. Drummond, that you made that entry?

A. The entry is made by myself, but I cannot answer who delivered me the money.

Q. Have you the least recollection as to the person of the noble defendant having come to you with any such note?

A. None.

Re-examined.

Q. Whether you ever saw the person of the noble defendant in the banking-house of Messrs. Drummonds?

A. I have.

Q. Whether

Q. Whether you ever received any money from the hand of Mr. Dundas to place to his credit?

A. It is impossible for me to answer to that question.

Q. Whether you know or have any recollection of ever having in the course of your business at Messrs. Drummonds' received any sum of money of any description at any time for Dundas?

A I cannot charge my memory to answer that question.

By a Peer. Q. Suppose that this Bank note had not been brought by Mr. Dundas, and not delivered to you by Mr. Drummond himself or by his direction, but if any stranger had come into the shop with a Bank note and directed you to put it to the credit of Mr. Dundas, would the entry have been the same as it is now, or would the entry have contained the name of the person bringing the note to you?

A. It would have been the same as it is now.

Q. Supposing this note had been brought by some stranger who had directed you to place it to the credit of Mr. Dundas; you are supposed to have stated that the entry would have had at the top of it, the name of that third person?

A. My question to the person would be, am I to make it received of you or of Mr. Dundas? If he had said of Mr. Dundas, the entry would stand as it did; if he had said of him, the entry would be different.

Q. Whether you have some private mode either prescribed by your principals in that house, or some private mode used by yourself for your own satisfaction that you may be able to distinguish whether the receipt of a sum of money for which you give credit was made to the person in whose name it is credited, or to some other person for him?

A. Sometimes I make a private mark, but not generally; in the hurry of business I may have neglected it.

Q. If any one of the Messrs. Drummonds, a partner in that house, and a principal, had come out of the next room, and brought you a thousand pound note, saying carry it to the credit of Mr. Dundas, whether in the usual course of your business you would not have put some distinguishing mark to that entry, in order that you might know that you received it from some other hand than that of Mr. Dundas?

A. I should not have made any private mark.

Q. What is the private mark which you usually make?

A. Sometimes I make the letter P. to shew it was by another person.

Q. Is there any P. to this entry?

A. None.

Q. Whether this entry stands in the form those entries usually, if not universally, stand in these books, when you have received money out of the hands of the person to whose credit that money is carried?

A. It does.

Q. In what manner was the specific sum of 400l. paid which makes the balance of the 1000l.?

A. Three hundred and eighty pounds in Bank notes and 20l. in cash; one Bank note of 40l. two of 30l. four of 25l. five of 20l. four of 15l. two of 10l. and 20l. in cash.

By counsel. Q. You were asked whether the letter P was not opposite the entry in question, to shew that the money was paid by another person. Whether notwithstanding the letter P. is not to this, it enables you with any certainty to say whether it was money brought by Mr. Dundas, or by any person upon his account?

A. It does not.

Q. Though

Q. Though the letter P. is not there, yet nevertheless it might be brought by some other person?

A. That is possible.

By the managers. Q. Whether on taking that book into your hand and reading the different entries, you would not know according to the course of business, that entries so made as that is, were not made where persons paid any money to the credit of other persons?

A. No; I cannot take upon myself to say that.

From a Peer. Q. Whether you always ask the name of a person who comes with the money desiring you to give credit to another?

A. It is usual for us to ask who are we to make it received of? If they say of the person to whom we give credit, we make the entry as this is in my hand; if they say any other person we put the name.

From a Peer. Q. If the money had been received from any other person, than Mr. Dundas, would not you in the course of business, have given such other person a receipt for it?

A. Yes we usually do?

Q. Is there any book or document in your custody in which such receipt is entered and can be found?

A. None.

From a Peer. Q. Whether it is not the usual course if a person brings money and desires it to be entered, not to his own credit, but to the credit of another, to give that person a receipt for the money paid in?

A. It is usually done.

Q. Is it always done?

A. No.

Q. Was it done in this particular case?

A. I cannot charge my memory, to say whether I gave a receipt or not.

Q. When you give any receipt to a person who brings money to be entered not to his own credit, but to the credit of some other, do you make any memorandum of a receipt so given?

A. Sometimes we mark the letter R underneath it, sometimes not, it is not a general rule.

Q. Whether is it not a constant custom of Messrs. Drummond's, in the accounts with their customers, when any sum of money is paid in to the credit of their customers by another person to give a receipt for that sum?

A. Certainly it is.

From a Peer. Q. When you render any account to any of your customers, and when that account contains credit to such customer for money paid in by another person, and not by himself, have you any waste book or other book from which that account so rendered to that customer is copied?

A. It is posted into the ledger, which explains the entry in this book.

Q. Have you got any ledger applicable to this particular transaction, so as to be able, by referring to that ledger to ascertain, whether or no the account of this particular customer was in any part for sums not paid in by himself, but by another?

A. I dare say we have.

Q. Would the ledger furnish any light upon that subject?

A. The ledger that alludes to this transaction will not; it will appear as if it were received from Mr. Dundas.

Q. Would the ledger ascertain whether this 1,000l. paid in to the credit

dit of Mr. Dundas was paid in by him, or by some other person on his account?

A. It would appear by our ledger as paid in by himself.

Q. Supposing it had been paid in by another person, would a reference to the ledger shew it was paid in by another, and not by himself?

A. It will appear to be paid in by himself.

Q. When you render an account to your customer, do you retain in your possession in any book any thing from which you can see what account you have rendered to your customer?

A. Yes.

Q. What is the name of that book?

A. The Ledger.

Q. By referring to that ledger, should you be able to ascertain, whether this sum of money which appears in the entry, to the credit of Mr. Dundas, was in fact paid in by him, or by any other person?

A. It would appear in the ledger as received from himself.

Q. Whether in fact he paid it or not?

A. Yes.

Q. Looking at the book, you have said, you cannot answer with certainty whether you received the money of Mr. Dundas or not; can you speak with more certainty from the contents of another book than you can speak with from the contents of that book?

A. No.

Q. Whether Mr. Douglas at any time over paid any money to Messrs. Drummonds on account of Mr. Dundas?

A. He has.

Q. Can you state from the entry now lying before you, the probable entry that will be found corresponding with this in the ledger?

A. There will appear the date, the word received, and the sum 600l.

Q. Will it appear from whom received?

A. As from himself.

Q. Is it usual for the customers at the house of Messrs. Drummonds, when they receive their account current from the banking-house, to sign that account?

A. Yes, but not generally so.

Q. Has any account current been rendered to Mr. Dundas, comprehending this period?

A. I cannot answer; that is a book I have nothing to do with.

Q. By the managers. Whether it was the practice for the customers of Messrs. Drummonds to keep banking-books?

A. Some had books, some had not.

Q. Do you know whether Mr. Dundas had a banking-book?

A. I cannot answer that question.

From a Peer. Q. Whether the books which are kept in your banking-house, containing the accounts of Mr. Dundas, have or have not from time to time been settled by Mr. Dundas himself?

A. I cannot answer that question.

The witness was directed to withdraw.

Mr. Thomas Buckley was then called in, and being sworn, was examined as follows:

Q. Are you a clerk in the banking-house of Messrs. Drummonds?

A. I am.

Q. Were

a clerk in that house in the year 1782?

Whether there are entries in that book you hold in your hand in hand-writing;

A. There are.

Q. What is that book?

A. A bank-book.

Q. Is there an entry there of the 29th of November, 1782?

A. There is.

Q. Is there a sum entered in that book 1000l. paid in a bank-note on that day?

A. There are the particulars of a bank-note K 212 A. C. 7th of November, 1000l.

Q. Is that entry in your own hand-writing?

A. It is.

Q. Does this note you now hold in your hand correspond with that entry?

A. I believe it does.

Q. Is it not the note?

A. I cannot swear positively to that.

Q. Read the date of the note and the letter, and then read the entry.

A. It corresponds with the entry in the book in the number, date, year, and sum.

Q. The entry made in the book, and the notations upon the bank-note corresponding with it. Whether the letters A. C. marked in the entry in that book, are meant to correspond with the letters A. C. marked upon the bank-note itself?

A. I believe so.

Q. Look at that other book, do you know that to be a banking-book belonging to the banking-house of Messrs. Drummond?

A. I do.

Q. Is there an entry in that of the bank-note you have in your hand?

A. There is.

By a counsel. Q. Is that entry in your own hand-writing?

Q. It is not.

By managers. Q. Whether the entry in the witness's own hand-writing in that book in Mr. Drummond's office, corresponds with another entry made in another book of that bank-note?

A. The letter, number, and sum, correspond?

Q. And the date?

A. The date is not entered in the other.

By a Peer. Q. What is that other book?

A. It is called the bank-book, where the notes paid into the banking-house are usually entered for the information of persons that may come to enquire after notes, lost, stolen, or mislaid.

Q. How do you describe that book in which the entry in your own hand-writing is contained?

A. We call it the bank-book, it is the book in which every note that comes into the house is entered in the evening.

Cross-examined.

Q. Whether in all cases the ledger kept by the banker is copied from the waste book, and cannot be more correct than the waste book itself?

A. The waste book being the original entry, is the book always referred to; the cash book is copied from the waste book, and from the cash book it is copied into the ledger

Q. Can the ledger then be more particular with respect to character or circumstances of any notes paid in, than the waste book?

A. I should think not.

By a Peer. Q. Would the waste book, if it was referred to, give you any more information upon this subject than the book before you does?

A. The waste book is the only book where information can be had.

By a Peer. Q. Is it not the practice to copy every night from the waste book into the ledger, in order to see that the accounts are correct?

A. They are copied in the course of the day into the cash book, and posted in the course of the day into the ledger from the cash book.

The witness was directed to withdraw.

Mr. Wm. Heald was again called in, and examined as follows:

Q. What is the book you have before you?

A. The ledger.

Q. Is that ledger your own hand-writing?

A. No.

Q. In whose hand-writing is that ledger?

A. In Alexander Hope's.

Q. Is Alexander Hope alive or dead?

A. Dead.

Q. Are you acquainted with his hand-writing?

A. Yes.

Q. Is the entry on the 29th of November, which you will see there, to the credit of the Right Hon. Henry Dundas, in the hand-writing of Mr. Hope?

A. It is.

The counsel for Lord Viscount Melville objected to this evidence.

The witness was directed to withdraw.

Mr. T. Rippon was again called in, and examined as follows:

Q. Are you an officer of the Bank of England?

A. I am.

Q. In what office?

A. In the cashier's office at present.

Q. How long have you been in the Bank of England?

A. Ever since the year 1782.

Q. Were you then conversant in the mode in which the bank conducted that part of their business which relates to the issue of bank-notes?

A. I was.

Q. How were the bank-notes at that time issued by the Bank of England, distinguished from each other?

A. They were distinguished by being made out in different books, and the letter of these books was marked on each note.

Q. Did it ever happen that any notes, bearing the same letter, the same date, and the same number, were issued on the same day?

A. Not on the same day.

Q. Whether

Q. Whether any note, exactly corresponding with that note you have in your hand, in letter, date, number, and day, can have been in circulation in the kingdom?

A. Only one of the same kind, on the same day, can be.

Q. And must that have been the one; do you swear that there could have been but one of that description?

A. I have no doubt of it.

FOURTH DAY.

FRIDAY, MAY 2D.

THE house being resumed, and the usual proclamation made, the Managers for the Commons were informed they might proceed with their evidence.

Mr. Thomas Oliver was called in, and being sworn, was examined.

Q. Whether you are now a clerk in the banking-house of Messrs. Drummonds?

A. Yes.

Q. Were you in that situation in the year 1782?

A. I was.

Q. Was it usual at that time to give the customers of that house banking-books?

A. Whenever it was required; a great many had, and some had not.

Q. Do you know whether Lord Melville had an account at that house in that year?

A. Yes.

Q. Had he a banking-book?

A. It appears he had for some years.

Q. Did you ever see this banking-book?

A. I have, because I have marked in the ledger, that the book agreed at a certain period.

Turn to the entry in the ledger of the 10th of August, 1782.

Q. By counsel, Whether that entry is made by himself?

A. It is not.

Q. By a peer. Describe what that book is.

A. It is a ledger for the whole year 1782.

By the managers. Q. Are the banking-books of the different customers of the house of Messrs. Drummonds transcribed from their accounts in that ledger, or other ledgers like that?

A. They are always a transcript, an exact copy.

Q. Of course Lord Melville's account was transcribed in the same manner as other customers' accounts?

A. It was.

Q. Have you examined Lord Melville's account with the account in that edger?

A. I have.

Q. It is wished a particular entry in Mr. Dundas's account of the 10th of August, 1782, may be read,

The

The witness read as follows: " 10th August, 1782, by cash received of Andrew Douglas, Esq. 10,000l."

Q. Read the entry on 4th of October, 1782.

A. October the 4th, ditto 200l. 5s. 2d.

Q. 15th November.

A. The 15th of November, of ditto 232l. 14s. 9d.

Q. Read another entry of the 29th of November, 1782, which is the entry that was yesterday read out of another book, which was sworn to, as being in the hand-writing of the witness then before your lordships, for 600l.

A. November 29th, received 600l.

Q. Read the entry of the 19th of December.

A. December 19th, received of Andrew Douglas 1000l.

Q. Are those all the entries from the commencement of the account, up to this period on the credit side of this account?

A. They are.

Q. Is that ledger of the same description as the one you had in your hand just now?

A. Of the same description.

Q. By counsel. Are these entries in your own hand-writing?

A. No, they are not.

Q. Have you examined them with the waste-book, or with Lord Melville's banking-book?

A. It appears that I have, by marking that the book agrees at the end of the year.

Q. Whether that examination in this case, and in the case of the last book, was, with a banking-book, delivered to the defendant, or an examination with the waste book?

A. An examination with the banking-book of Lord Melville. The banking-book is a copy of this, without making a reference at the time to the waste-book.

Q. Whether you can now say, upon your oath, that you have yourself compared the banking-book with that ledger, so as to be sure that the one is a copy of the other?

A. If it is not a true transcript, it must be an error in copying.

Q. Can you recollect who it was that wrote out the banking-book for the defendant?

A. It appears that I have done it myself, from the mark here.

Q. Is it to be understood that you mean to say that the banking-book you delivered to the defendant was a correct copy of the book before you?

Q. By a peer. Can you say upon your oath?

A. It is impossible to be more particular in the examination. It is done in the usual way.

Q. May the entry of the 21st of March, 1783, be read again in the account of the Right Honorable Henry Dundas?

A. March 21st, by cash received of Andrew Douglas 1000l.

Q. Read the entry of the 17th of April.

A. 17th April, received 500l.

Q. From a peer. Is there no name?

A. No name.

Q. What

Q. What was the balance of the account of Lord Melville in that account, on the morning of the 29th of November, 1782, before the receipts and payments of the day began?

A. The balance on the morning of the 29th of November, appears to be 92l. 19s. 10d. in favor of Lord Melville.

Q. By a peer. Was the balance before the accounts opened that day?

A. Yes, before any thing came to the account that day.

Q. Go on to the 21st of March, 1783, and state what the balance of Lord Melville's account was that day before the payment of the 1000l.

A. The balance on the morning of the 21st of March appears to be 12l. 19s. 10d. in Lord Melville's favor.

Q. Had Lord Melville the benefits of all those credits, that are so entered in that book?

A. Undoubtedly.

Cross-examined.

Q. Can you recollect whether the banking-book, when you saw it, was in the possession of Mr. Douglas or of whom else?

A. I cannot.

Q. At what place did you see it?

A. At Drummonds' banking-house.

Q. Did you ever see it in Lord Melville's or Mr. Douglas's possession?

A. Never in either of their possessions that I can recollect; it is impossible at this distance of time to recollect precisely.

Q. The balances you have ascertained now, are they balances that appear to be struck in the book, or balances you have now made by calculation?

A. The balances are not struck, I have summed up the accounts on each side, and that appears to be the balance at that period.

Q. From a peer. You have stated two different sorts of receipts on the credit of Lord Melville; some of the articles are entered as being paid by Andrew Douglas, Esq. and others merely stating them as received; can you upon oath say by whom the latter articles were paid?

A. No, I cannot, for I was not in the department to receive money.

By the managers. Q. Whether it was usual to deliver the banking books to the customers of the House?

A. To the customers of the house if they came themselves, but gentlemen more frequently sent than came themselves.

Q. Was it the custom to deliver the banking book to the persons whoever came for it?

A. Whoever was sent for the books always had them.

By a Peer. Q. In the year 1782 and 1783 had Mr. Andrew Douglas any private account of his own with Mr. Drummond?

A. I will turn to the ledger and see, but I do not recollect any. His name does not appear in the Alphabet.

Q. If he had had one, would it not have appeared in that ledger?

A. Undoubtedly.

From a Peer. Q. Did you ever see, or have you an opportunity of knowing, in what manner Lord Melville settled his private account with Messrs. Drummonds when these balances were struck?

A. There does not seem to be any settlement from the commencement.

By

By a manager. Q. Whether a copy of Lord Melville's account has ever been delivered to him?

A. There was an account made out lately, but I did not see it.

By a Peer. Q. Have you said that you were more in the course of sending the banking books open or sealed up?

A. We do it both ways: if a person brings it open, it is generally returned the same way, but it is generally sealed.

Q. How were the payments made to Lord Melville's credit, either by order or by check?

A. By common drafts generally payable to some person, or payable to bearer?

Q. Does it appear that they were ever paid to Lord Melville in person?

A. I do not see any entry to that effect as far as I have examined?

Q. May this be put into the hand of the witness, a draft of Lord Melville upon the house of Drummond. Do you know that hand writing?

A. I knew the signature of Mr. Dundas at that time, but I never saw him write.

The counsel stated, if it is any paper signed by the noble defendant, he would admit it directly.

By a manager. Q. Would you have answered any draft upon Lord Melville's account not signed by himself?

A. Not unless we had had an order for that purpose.

Q. Did you receive any such order?

A. I cannot answer that.

A draft was then read as follows:

"London, the 8th of November, 1782, pay to William Bell, or order, 50l. sterling, to the account of Henry Dundas. To Messrs. Robarts and Henry Drummond and Company, Charing-cross."

By a Peer. Q. Are these drafts still in the possession of Mr. Drummond?

A. They are now in court.

Q. By whom are these drafts signed?

Q. Are any of them signed by Lord Melville?

A. I believe all of them are, unless they are particular orders to draw; I have not examined them lately.

The witness was directed to withdraw.

Mr. William Heald again called in, and examined as follows.

Q. What book have you before you?

A. The waste book of Mr. Drummond's house.

Q. Read the entry of the 29th of November, 1782?

A. Received of the Right Honorable Henry Dundas, 1000l.

Q. Read the entry, March 21st, 1783, in the waste book?

A. Received of Andrew Douglas, Esquire, a Bank note of 800l. and a Bank note of 200l. for which I give credit to Henry Dundas in 1000l.

Q. Read the entry, April 7th, 1783.

A. Received of the Right Honorable Henry Dundas 500l. for which I give him credit.

Cross

Cross-examined.

Q. Whether that last entry you have made specifies the manner in which it was received, whether by Bank notes, or cash, or in what way?

A. By a Bank note value 500l.

Q. Are you to be understood now to say what you did yesterday, that though the entry purports to be a receipt from the Right Honorable Henry Dundas, yet that it might be so entered, though received from any body else on his account?

A. It might be from some other person.

By the managers. Q. Can you account for the difference in the ledger when compared with the waste book?

A. I do not know of any difference?

Q. Is there no difference? Whether "received" in the ledger does not mean it was received from the person himself or herself to whom that credit is carried.

A. It does.

Q. Whether it is customary in the house of Messrs. Drummonds to charge interest upon their over-payments to their customers?

A. It is.

Q. Whether such charge was ever made or would have been made to Lord Melville, provided his account had been overdrawn in the same way, as it would have been to other customers?

A. I believe it would.

Q. Did it ever happen that any such charge was made in the account of Messrs. Drummonds?

A. I cannot answer that, it is not in my department?

By counsel. Q. You are asked with respect to a comparison between the ledger and waste book, whether the ledger must not necessarily be general, as the waste book is, so a receipt from Mr. Dundas be in the same terms as it in the waste book?

A. It would.

By a Peer. Q. If I paid a sum of money into Mr. Drummond's bank upon the account of Mr. Dundas, or any other individual, declining to mention to the bank my name, whether they would not enter it as received by Mr. Dundas, or some other individual?

A. I should ask the gentleman of whom I was to make that received; if he said Mr. Dundas himself, I would have entered Mr. Dundas's name only.

By a Peer. Q. Whether you would not have made the entry of payment from Mr. Dundas himself in all cases in which another person paying the money directed you so enter it?

A. Agreeably to the direction given me I should have made the entry.

By the managers. Q. Whether in such case as that just now stated by the noble lord to which you have given that direct answer, you would have made some private mark by which you would have known yourself that there had been some other person there, and not Mr. Dundas?

A. That might have been omitted by me.

Q. Is there any mark prescribed in the usual form by the house, that they may be informed of such payment having been so made when the name of the person is not delivered in?

A. None.

Q. Is

Q. Is there not a certain mark or memorandum made by the letter "P" inserted in the books upon such occasion?

A. Sometimes I do, but not generally?

Q. What is the interpretation of the letter P?

A. That it was another person?

From a Peer. Q. Do you recollect any such instance as a person coming to the house of Messrs. Drummonds to make a payment of 1000l. on account of Mr. Dundas, and desiring his name might not be inserted as the person making the payment, but that it should be entered to Mr. Dundas?

A. It is impossible for me to recollect such a circumstance.

By a Peer. Q. Whether you have any recollection whatever of what did pass when any of these notes were paid in?

A. I have not?

From a Peer. Q. Do you know of your own knowledge that all these notes were carried to the credit of Mr. Dundas, and to no other person?

A. I do not know that, the last witness could inform the house.

The witness was directed to withdraw.

Mr. Thomas Oliver was called in again, and examined as follows.

Q. In case over-payments were made to any of the customers of the house of Messrs. Drummonds, was interest always charged?

A. Generally charged.

Q. Was Lord Melville any exception to that rule?

A. No.

Q. Was he ever charged interest for over-payment?

A. No; he was charged regularly for money at the end of the year.

By a Peer. Q. Is it not the practice at Messrs. Drummonds' house, when any payment whatever is made by another person, to give notice to the customer of such payment?

A. It is a regular rule, when one person pays upon another's account, to give notice of it the next morning.

Cross examined.

Q. What was the amount of the interest charged upon the noble defendant from January 1786 to May 1800?

A. I have not got the particulars, but, by referring to the ledgers, I can collect it.

You will refer to the books for that purpose, and prepare yourself to give an account on a future day.

By a Peer. Q. When a payment is made in Messrs. Drummonds' house by an agent on account of his principal, is it customary to give notice to such principal of the payment of his agent?

A. It is a general custom, unless it is particularly desired not to be.

Q. Who is it that gives notice next day?

A. The clerk whose business it is to write the letters.

Q. How does the clerk collect the knowledge that it was paid by a third party?

A. He collects that knowledge from the entry in the cash book.

Q. What mark in the entry communicates that knowledge to the clerk?

A. If Mr. Douglas, for instance, paid in a sum of money on Mr. Dundas's account, it is stated, for instance, Henry Dundas of Mr. Douglas.

Q. Supposing the person does not chuse to give his name, but only says, I bring such a sum for Mr. Dundas?

A. I enter it in his name, and give him credit for it, without specifying who he was.

Q. Are you to be understood, that in every case where a person does not give his name, there is no notice given?

A. Certainly; there is no notice at all, where the person paying does not give in his name.

Q. You are understood to have said, that if the money is paid in without the person giving his name, no notice is given of that payment?

A. Certainly not, when it appears only in the person's name on whose account it is received.

Q. Then, how is the person to whose credit it is received, supposed ever to learn that it has been sent to that house?

A. The supposition is that it has been sent immediately from that person by a messenger.

From a Peer. Q. Do you infer then that it is supposed to be by the party himself?

A. By the party himself.

Q. Is it the usage of the house, whatever the fact be, to consider the person paying, who does not give the name, as paying on account of the individual to whose account the money is to be placed?

A. Certainly.

Q. Leaving them to settle the matter between them as they think proper?

A. Certainly.

Q. Then where a person pays a sum of money without giving his name, though it is carrried to his credit, may it not frequently happen that the person to whose account it is carried, knows nothing of the fact till his book is sent to your house to be settled?

A. It may so happen.

The witness was directed to withdraw.

Mr. William Mac George was called, and being sworn, was examined.

Q. Are you a clerk in the house of Messrs. Drummonds?

A. I was in the year 1785.

Q. Were you so in the year 1782?

A. I was.

Q. Did you copy the letters that were sent by that house to their different customers?

A. It was my custom, at an early period of my going to the house, to copy the letters; afterwards I wrote them.

Q. What book is that you have in your hand?

A. The letter book.

Q. Refer to a letter written in June 1785, which purports to be written to the Right Honorable Henry Dundas. Is that letter in your hand writing?

A. It is.

Read

Read the following entry in the said book :

" Messrs. Drummonds present their compliments to Mr. Dundas, and take the liberty to acquaint him, his account stands 2953l. 13s. 10d. overpaid by which they apprehend there must be some mistake, or that some money has not been paid in that he expected, and therefore think it right to acquaint him of it."

" 23d June, 1785."

The witness was directed to withdraw.

Mr. Oliver was called in again and examined as follows,

Q. Was interest in fact charged upon that specific overpayment?

A. The interest was charged from the time the account became overpaid.

Mr. Mac George recalled.

From a Peer. Q. Did Lord Melville return any answer to that letter?

Q. Not that I know.

The managers for the commons stated they would now produce an account signed by the noble defendant himself.

The counsel for Viscount Melville admitted it.

The same was delivered in and read as follows :

" Dr. James Newbegging, to the Right Honorable Lord Advocate creditor, 1782, Nov. 16; to debtor Sir William Forbes, for my bill on Lord Advocate, 1000l."

Mr. George Scott was called in, and being sworn, was examined as follows :

Q. Were you a clerk to Messrs. Moffat and Kensington?

A. I was.

Q. What is the book you now hold in your hand, and is there any entry in it, in your own hand writing?

A. It is called the goldsmith's book, it is a book which contains the particulars of all bank notes and drafts that come into the house.

Q. Is there any entry in your hand-writing, by which it appears, that a bank note for 1000l. K. 12. came into the house in November, 1782?

A. There is K 12, 24th of October.

By counsel. Q. Are you the person who actually received the bank note?

A. I was not.

Q. From what did you make this entry?

A. From the bank note.

Q. But by whom was it brought to you, you do not know?

A. It was received.

By a Manager. Q. Is the bank note you now hold in your hand the note from which you made the entry?

A. I have no doubt of it.

Q. Does that entry, made by you, enable you to say on what account that bank note was paid to the house?

A. It was received for a bill upon the Lord Advocate of Scotland.

The counsel for Viscount Melville objected to the evidence.

By a Peer. Q. Do you know any thing of this bank note, but from what appears upon the note itself?

A. From the memorandum upon the back of it, it was received in payment of a draft upon the Lord Advocate of Scotland.

Q. Have you any knowledge who that bank note came from, excepting from the hand writing upon the back of it.

A. Not any.

Mr. Whitbread then stated as follows:—"Having brought the examination down to the 17th of April, 1782, and having been called by the counsel on the other side, to depose upon oath as to a part of the articles in this impeachment; I beg to appear in the character of a witness, and upon my oath to affirm, that I heard Lord Melville declare on the 11th of June, 1805, that, during the paymastership of Mr. Douglas, he became possessed of the public money, to the amount of 40,000l. or thereabouts, and that he further declared that he would not reveal the application of that money, being impelled to do so from motives of public duty, private honor, and personal convenience.

By a Peer. Q. Was that answer, so given by Lord Melville, committed to writing?

A. I heard Lord Melville say it, and it was merely to save the time of the court, and, as I have been already sworn, that I swear it. Many other witnesses who heard it might be called to prove it.

Examined by the Counsel.

Q. How long is it since the honorable manager heard this declaration made!

A. I stated the date, on the 11th of June, 1805.

Q. Did the honorable manager make any note at the time of the words that were spoken?

A. I did not commit them to writing at the time, but I remember the words upon my oath.

Q. Did not the noble defendant, at the same time, accompany it with a positive declaration that he had not converted any part of it to his own profit or emolument?

A. I believe he did.

Q. Have you the least doubt that he did do so?

A. As to the express terms, I do not remember them, these that I have spoken are the words that made great impression upon me, and which I shall never forget, the import of the other parts of his speech certainly was, that he had not applied it to any private advantage or emolument.

Q. In substance it was to that effect?

A. I have said so.

Q. That the honorable manager has no doubt it was?

A. I have said so.

Mr. George Swaffield was now called, and being sworn, was examined as follows;

Q. Are you not now an officer in the Navy Pay-Office?

A. I am.

Q. How many years have you been in the Navy Pay-Office:

A. Sixty years.

Q. In the early part of your duty in the Navy Pay-Office, do you recollect that there was such a thing as an iron chest kept for the public accommodation of the office?

A. There has always been an iron chest in the strong room, as we call it.

Q. To what use was that iron chest applied?

A. To lock up the public money.

The counsel for Viscount Melville stated they would reserve their cross-examination till the witness was called again.

William Mackworth Praed, Serjeant at Law, called in, sworn, and examined as follows:

Q. What have you in your hand?

A. I have the examination of the Right Honorable Lord Viscount Melville which was taken before the Commissioners of Naval Enquiry, on the 5th of November, 1804.

Q. Is it signed by Lord Melville?

A. It is.

Q. Did Lord Melville depose upon oath to that evidence?

A. Lord Melville was sworn, and deposed upon oath, to the contents of this paper.

Cross-examined.

Q. Before Lord Melville was examined before the Commissioners of Naval Enquiry, had any notice been given to his Lordship of the points upon which it was intended to examine him?

A. Certainly not, any further than that a letter had been written before to the noble Lord with respect to some part of the subject upon which we were then making our enquiry, and to which letter an answer had been received. I only speak of this from having seen the letter in the office, and the answer of his Lordship to it.

Q. Then excepting that letter which I believe desired a production of the accounts, no intimation whatever was given to the noble defendant of the points upon which it was intended to interrogate them?

A. I think I may say certainly not; otherwise than as the precept to which perhaps reference should be had will shew; perhaps I ought rather to refer to that altogether. I believe it required nothing more than the noble Lord's attendance any day that would be convenient to him, I am not quite sure whether it was a precept or a letter.

By a manager. Q. Whether the questions were not submitted to Lord Melville in writing?

A. The questions were written down and then read over by the secretary to Lord Melville and his answers taken down by the secretary who sat on his right hand.

Q. Had

Q. Had Lord Melville an opportunity of seeing the depositions he had given?

A. The course has always been and was observed with regard to Lord Melville, that the question is first written down, the answers taken, the answer read, the question and answer then read over, and at the close of the examinaiion, the whole examination over again, and the examinant is desired to attend to hear the examination read over at some future day or on the same day if it be a short examination, and then sign it. That course was observed by Lord Melville, the questions were read over distinctly, and the answers; also the whole was read over on the first day, and on the subsequent day, when it was in the form in which I now hold it; the whole was read over to Lord Melville by the secretary, one of the commissioners holding the fair copy and after it had been so, read, Lord Melville signed it.

Q. Have the persons opportunity given to them of altering or correcting the answer they had given before their subsequent signing it?

A. The witnesses have been at all times permitted to make such alterations as they thought proper on the first day of examination, but on the second day no alteration has beeu permitted to be made in the transcript; but if any thing suggested itself to the witness, by way of alteration or correction, it has been written down upon the examination so transcribed, and then those alterations have been signed by the party so preparing them, and also by the commissioners then present.

Q. Did Lord Melville avail himself of the latitude granted by the Naval Commissioners to amend his deposition?

A. He did not, if he had it would appear upon this paper.

Q. Whether he availed himself of the opportunity given, of correcting his deposition before it was signed?

A. Certainly, upon the first day the noble Lord availed himself of shaping the answers in such manner as appeared eligible to himself; I do not recollect, that there was any thing in particular, that he desired to make any alteration in. He did not, in fact, make any alteration in the second examination, as transcribed here. But in the course of the first examination the turn of expression was sometimes changed by the noble Lord as he dictated to the secretary; but I am not aware that there is any material alteration from the original impression of his mind as he delivered it to us.

Q. Had the noble Lord the same opportunities given him to make any alterations he might think fit, which were given to other witnesses?

A. Undoubtedly he had.

By Counsel. Q. Whether the answers that were taken down from the noble Lord, and that appear in that paper, were the answers that he gave *instanter* immediately upon the question being put to him, of which he had no previous notice.

A. Undoubtedly they were.

Q. Do you, in fact, recollect that the answer first given to any question put, at any subsequent time, was corrected even in the expression, or words of it?

A. I can take upon myself to swear, that in the course of dictating to the secretary, some words were altered in the phraseology; but I am not aware of any alteration in any thing material.

Q. But do you remember, in point of fact, that any alteration of any kind did take place?

A. No, otherwise than as the phraseology might be altered in the course of dictating to the secretary.

Q. After

Q. After it had been taken down, was any alteration made in any answer?

A. After it had been transcribed, I am not aware that any alteration was made.

Q. By counsel. Whether the questions which were put to Lord Melville had been written down prior to his Lordship's attendance?

A. I cannot take upon me to say with positiveness that every question which was put to Lord Melville was written down; I rather think they all had been written down; but as it frequently occurs in the course of examination that some answer leads to a further question, it is impossible for me to say now but that some such question might have been introduced in consequence of a preceding question, and the answer of Lord Melville.

Q. How long before this examination had the questions been written down?

A. I cannot take upon me to say how long they had been prepared.

Q. Was it the day or week before?

A. I cannot speak as to that point, because our course has been to meet in the morning prior to the attendance of a witness, and read over the questions altogether; but with regard to framing those questions I cannot say, not having framed them myself, nor heard from any of the commissioners when they were prepared, at what time they were prepared.

Q. Had you seen them at the preceding meeting?

A. I cannot say that I had; I can speak positively that I saw them the same morning Lord Melville attended, but cannot speak to having seen them at any prior time.

Examined by the Peers.

Q. Did Lord Melville, when he attended upon the commissioners, express a wish to have further time for consideration of the answers he was to give to the questions?

A. By no means, no such application was made.

Q. Was Lord Melville allowed to see the questions proposed to him between the first and the second examination?

A. Certainly not; nor was there any application that I am aware of made for that purpose.

Q. Whether, according to the course of your proceedings, you ever grant time unless it is asked?

A. We have in cases of this sort; some objection has been made concerning the propriety of some persons disclosing matter conceived to be committed to him in confidence. There was an instance in this case of Mr. Antrobus; we gave him time to advise with counsel in order to be satisfied whether we had or not a right to enforce an answer to the question; and another instance with regard to Mr. Trotter; he requested time for a similar purpose, and we granted it.

Q. What interval was there between the first and the second examination?

A. There was not a second examination; it was a second attendance, merely for the purpose of signing the first examination. I think it was an interval of three or four days, but I am not sure.

Q. Had

Q. Had Lord Melville an opportunity of seeing his answers during the interval?

A. If it is meant to ask whether an application was made for the purpose, I do not know of any; and if Lord Melville had made an application, I think it could not be granted, and for this reason: if the commissioners had been sitting, and Lord Melville had come, I have no doubt he would have been permitted to see them; the secretary no doubt would have refused him, and referred him to the board.

Q. Whether you have ever granted time to persons who were to be examined upon any other grounds, than where it happened that there was a doubt about your own right to put the questions?

A. I cannot answer it with certainty: it does not occur to me at present that instances of that sort of wish for delay have occurred; but I can say that in the present case no such delay was asked for.

Q. After the first attendance was the witness furnished with a copy of what he deposed, before the second attendance?

A. No, it has been applied for, but has been constantly refused; and the reasons of the board I apprehend to be this, that if we had granted such copies, the witnesses would have opportunities of talking with other people on the subject of their examination, and might feel impressions which might lead to an alteration of their evidence, not arising from their own knowledge, but the communications with others.

Q. Would the witness examined before you have been allowed to take copies of the answers they had given to the questions?

A. The general rule has been not to permit that practice: in some cases persons have desired to take down a particular question, with a view to give a more satisfactory answer afterwards, but in general it has been refused, and for the very same reason for which we have refused to grant copies.

Q. Was it known to Lord Melville, or to the commissioners before the examination of Lord Melville took place, that the examination would involve his private affairs?

A. No such intimation was given on the part of the commissioners: what was in the breast of the noble Lord himself, with respect to the tendency of this examination, it is impossible for me to say.

Q. Was it known to the commissioners before the examination that the examination would involve Lord Melville's private affairs, or did that only come out in the course of the examination?

A. It was certainly known to the commissioners that the questions which they should put to his lordship would tend to disclose some pecuniary concerns of his lordship, or would oblige his lordship to rest upon the defence which was taken, namely, that he did not chuse to disclose certain circumstances on account of the clause in the statute; but as the question, went to discover from his lordship what use had been made of the money, and whether that use had been converted to his own advantage, necessarily these questions must lead to the disclosure of something which might be of a private nature, inasmuch as the advantage made of the money, if any such had taken place, would be private.

Q. Had any of the witnesses who were examined on the first day, and had given their answers, an opportunity given to them of examining those answers they had so given before the second day, when they were called upon to sign them?

A. I have

A. I have no recollection of any such application having been made; I think it would have been refused by the secretary, if any such application had been made to him, whatever might have been said by the Board, if an application had been made to them.

Q. Was any such notice given to the party on the first day, that he might have an opportunity of having recourse to his answers?

A. The usual course has been before the evidence taken down has been read over for the last time, on the first day, to call the attention of the examinant to the answers he has given, and to request that if he saw any thing that he wished to alter, he would do it. I will not charge my memory positively that this took place in the case of Lord Melville, but I should rather think that it did.

Q. The question is whether the secretary gave notice to the examinant the first day, that he might have that opportunity on the second day?

A. No, the secretary has never given any such notice that I know of.

Q. Is that paper an exact copy of the original examination of Lord Melville?

A. I have no doubt it is an exact copy; for the original evidence, as taken upon the first day, was in the hands of one of the members of the board, while this was read over by the secretary, and upon all occasions the transcript has been so compared, since I have been a member of that board.

Q. Whether you can recollect any instance in which the fair copy of the examination was not an exact copy of the rough draft taken at the time of the examination?

A. I apprehend I am aware of the allusion: I think it alludes to an examination at the first institution of the board, when I was not a member of it. There was one occasion in point perfectly well known, in which there had been something introduced by one of the clerks, different from the original evidence; it was observed when it was read over, and checked in the way I have described, and it was altered according to the wish of the examinant before he signed it.

Q. Whether we are to conclude, from the evidence you have given, that the noble Viscount, previous to his first attendance, had no intimation from the commissioners, either of the specific questions to be put, or the general scope and purpose of the examination?

A. He had certainly no intimation of the sort from the commissioners; but we had been for some time in the course of the examination into the mode of conducting the business of the Treasurer of the Navy, and Mr. Trotter had attended us frequently, and the noble Lord had had that letter written to him, to which we received the answer I before mentioned; but for greater certainty I apprehended the better course will be, to refer to the letter which was written to the noble Lord, requiring his attendance.

Q. I understand that after the first examination the noble Viscount was not allowed to revise and reconsider the answers he had given?

A. That is rather an assumption than a question. It is stated that the noble Lord was not allowed to revise the questions and his answers. I have already said, and again repeat, that no application to my knowledge was ever made by the noble Lord to revise them; on the contrary, if the noble Lord had applied to revise them, I rather think, and for myself can speak, he would have been permitted during the sitting of the Board to revise them, and prior to the transcript being made which was signed, I can speak for myself, that I think he would have been permitted to have made the alterations, if any had been proposed.

The witness then delivered in a paper, which was read by the clerk of the court as follows:

The examination of the Right Honorable Viscount Melville, taken upon oath, the 5th of November, 1804.

It appearing by the accounts laid before us that the sums standing in your name, as Treasurer of the Navy, at the Bank, at the following periods, were less than the sums with which you stand charged, exclusive of the money advanced to your sub-accountants, and that the deficiencies were as follow.

	£.	s.	d.
31st of December, 1786,	56,000	0	0
- - - 1787,	53,100	0	0
- - - 1788,	48,600	0	0
- - - 1789,	53,800	0	0
- - - 1791,	19,988	9	8
- - - 1792,	26,476	19	8
- - - 1793,	27,025	17	9
- - - 1794,	28,758	7	9
- - - 1795,	30,316	13	1
- - - 1796,	75,413	5	0
- - - 1797,	58,640	14	10
- - - 1798,	54,140	15	0
- - - 1799,	54,140	14	0

Q. To what cause are such deficiencies to be attributed?

A. Although I take it for granted the sums are stated by the question accurately, I could not on memory state that they are so. I desired Mr. Trotter, so far as I was concerned, to give you every information he could; and it was only in consequence of a conversation with him immediately after the receipt of your letter to me, of the date of the 26th of June, that I learned from the manner he kept his private accounts, it was impossible for him to give me the accurate information I required. The same reasons render it impossible for me to give you an answer to the question you put. I am aware that I am not bound to answer it under the provision of the act establishing this commission. But I should not have dwelt on that objection if there had been nothing but personal considerations to operate against my doing so; but for the reasons hinted to you in my letter of the 30th of June last, as I am not bound, so I could not feel myself warranted to give the explanations which your question points at.

Q. Upon what ground does your Lordship refuse answering that question?

A. Upon the ground I have already stated, under the 5th clause of the act of 43d Geo. 3d. c. 16.

Q. Was any part of such sums in your hands?

A. They certainly came into my hands, but did not remain there.

Q. Did Mr. Alexander Trotter, while Paymaster of the Navy, lay out or apply, or cause to be laid out and applied, any of the money issued for carrying on the current service of the Navy Office, since the first of January, 1786, for your benefit or advantage?

A. From the manner in which Mr. Trotter kept my accounts, it is impossible for me to answer that question; and I object to answer this question, in the answer I have stated to the first question.

Q. Did

Q. Did you direct or authorise him so to do?

A. To the best of my knowledge I never did.

Q. Did you between the 1st of January, 1786, and the 31st of May, 1800, derive any profit or advantage from the use or employment of the money issued for carrying on the current service of the Navy, under the 25th Geo. III. c. 41?

A. The same reasons which induced me to make the answer to the first question, must induce me to repeat the same answer to this.

Q. Does your lordship object to answer this question under the provision of the 5th section of the act of 43 Geo. III. c. 16?

A. I do, and upon the grounds stated in my answer to the first question.

Q. During the time you acted as Treasurer to the Navy, between the 1st of January, 1786, and the 1st of May, 1800, was any of the money applicable to naval services advanced by you, and by your direction, for any other public service than that of the Navy?

A. I decline to answer that question, under the provisions of the 5th section of the act of 43 Geo. III. c. 16?

Q. Was any of the money, issued for carrying on the public service of the Navy, applied by your lordship, or by your direction, for any other public service than that of the Navy, with the knowledge or consent of the Navy Board?

A. No, certainly not.

Q. Was there any official note or record made of the money issued for carrying on the current service of the Navy, having been advanced by your direction for any other public purposes than that of the Navy, or of the payment of such money?

A. No, there was certainly no official note.

Q. Did you authorise the Paymaster on or about the year 1786, to draw the money, applicable to the Navy services, from the Bank, and lodge it in the hands of a private banker?

A. I cannot precisely fix the time, but I am certain I did permit Mr. Trotter to lodge any money drawn from the Bank for public purposes, in his private banker's hands, during the period it was not demanded for the purposes for which it was drawn.

Q. What circumstances induced you to give such permission to the Paymaster?

A. An opinion to which I still adhere, that if the whole monies necessarily drawn from the Bank in pursuance of orders from the competent Boards were lodged in the hands of a respectable banker, under the controul of the Paymaster of the Navy, that it would add more facility to the conduct of the business of the office, in the multitude of small payments to be made, than if the money were deposited according to the constitution of the office. I likewise had it in contemplation, that in the receipt of these various small payments, made to such a variety of persons, they would be less liable to be imposed upon by that mode of transacting the business, than if they were each to receive drafts for such small sums upon the Bank, at such a distance from the office after its removal to Somerset Place.

Q. As the Paymaster of the Navy does not disburse any part of the public money, except for the payment of Exchequer fees, and other contingencies, does your lordship think it necessary that the Paymaster should have in the iron chest, or at a private bankers, any of the money issued for carrying on the current service of the Navy?

A. I do not think it necessary, but for reasons I have given, I think it expedient. The whole money drawn from the Bank, and placed in the

hands of the sub-accountants, pass through the hands of the Paymaster of the Navy; but though this is my opinion, I know many very competent persons entertain a different opinion.

Q. Did you give permission to the Paymaster to withdraw the money from the Bank, and lodge it in the hands of a private banker, with a view to his deriving any advantage or emolument therefrom?

A. If it is meant to ask me whether I ever gave any direct authority to the Paymaster to use the money in the manner above-mentioned, I should certainly answer no; but I have no hesitation in saying, that I believed and understood he did, and never prohibited him from doing so. And I believe it was so understood by others at different times, when the establishment of the Navy Pay Office was under consideration, when certainly no provision was made for the person exercising that trust of great extent and responsibility.

Q. As the money applicable to Navy Services was directed to be lodged in the Bank by the act of 25 Geo. III. c. 31, and not to be drawn from thence without specifying the services for which it is drawn; by what authority did you give permission to the Paymaster of the Navy to draw the money out of the Bank and lodge it in the hands of private bankers?

A. I take it for granted it always was drawn under the heads of service pointed out in the act of parliament; and when I talk of permission, I mean it under the explanation contained in answer to a former question, in which I suppose the money was drawn under competent authority.

Q. Do you know any instance of a Treasurer of the Navy having made good any loss which had arisen from overpayments or other misapplications of the public money?

A. No, I do not.

Q. Did you derive any profit or advantage from the use or employment of money issued for carrying on the current service of the Navy, between the 19th of August, 1782, and the 30th of April, 1783, or between the 1st of February, 1784, and the 31st of December, 1785, during which period you held the office of Treasurer of the Navy?

A. I decline answering this question under the 5th clause of 43 Geo. III. c. 16. and for reasons given in my first answer.

Q. Did you consider the addition, granted by the King's sign manual, upon your appointment to the office of Treasurer of the Navy, making your salary 4000l. a year, clear of all deductions to be in full satisfaction for all wages, fees, and other profits and emoluments, previously enjoyed by former Treasurers?

A. Certainly I did, with the exceptions of Coals, Candles, and some such small contingencies.

Q. When was it first discovered that Mr. Jellicoe was deficient in the balance of public money, which he stood charged as deputy Paymaster of the Navy?

A. I do not recollect the precise period, but the first thing that gave me any suspicion that there was danger of deficiency was, by observing in the reports occasionally made to me, that his balance remained stationary, so far at least as never to get below a sum I think between twenty and thirty thousand pounds; this led me to have a particular conversation with him, when he confessed to me, that for a considerable number of years he had been embarrassed from some advance or engagements he had come under, with a Mr. Cort. From the high opinion I had of him, in consequence of the character of former Treasurers of the Navy, and my own observations, I had no reason to doubt the fidelity of his representation; and it was

my belief, that if he had lived to superintend the business, and to bring the profits of the patent Mr. Cort had obtained, to their proper bearing, the loss might have been repaired. Upon this, however, I do not pretend to give any positive opinion, as it appeared after his death that his embarrassment had existed, and a balance become due at least as early as 1782.

Q. How many years before the death of Mr. Jellicoe was it you suspected he was deficient in his balance?

A. I cannot mention the precise time, but it certainly was more than one or two years.

Q. Was any enquiry made upon the discovery into the real state of his balance?

A. Certainly it was minutely enquired into.

Q. Does it any where appear what was the exact state of his deficiency at that time?

A. I cannot state it from memory; but I dare say it does appear.

C. V. M. POLE, HENRY NICHOLS,
EWAN LAW, W. M. PRAED. MELVILLE.
JOHN FORD,

A paper was delivered in as follows:

Treasurer's Balances, No. 38.

Wimbledon, June 30, 1804.

(*Received July 2*) —(*Read 2d*)

GENTLEMEN,

"I HAVE received your requisition of date the 26th instant. It "is impossible for me to furnish you with the account you ask. "It is more than four years since I left the office of Treasurer of "the Navy, and at the period of doing so, having accounted for "every sum imprested into my hands, I transferred the whole "existing balance to the account of my successor. From that "time I never considered any one paper, or voucher, that remained in my hands, as of the smallest use to myself or any person, "and consequently being often in the practice since I retired into "Scotland, of employing occasionally some time in assorting my "papers, and destroying those that were useless, I am satisfied "their does not exist any one material by which I could make up "such an account as you specify. But, independently of that circumstance, I think it right to remind you, that during a great part "of the time I was Treasurer to the Navy, I held other very confidential situations in government, and was intimately connected "with others. So situated, I did not decline giving occasional "accommodation from the funds in the Treasurer's hands, to other "services not connected with my official situation as Treasurer of "the Navy. If I had materials to make up such an account as "you require, I could not do it without disclosing delicate and "confidential transactions of government, which my duty to the "public must have restrained me from revealing.

"I have the honour to be,
"Gentlemen,
"Your most obedient humble servant,
"MELVILLE."

"*To the Commissioners of Naval Enquiry.*"

A paper was delivered in and read as follows:

Admiralty, March 28, 1805.
(*Received* 29*th*) —(*read* 29*th*)

" GENTLEMEN,

" HAVING read your tenth report, and observing particularly the " following paragraph in the 141st page:

' However the apprehension of disclosing delicate and confi-
' dential transactions of government might operate with Lord Mel-
' ville in withholding information respecting advances to other
' departments, we do not perceive how that apprehension can at
' all account for his refusing to state whether he derived any pro-
' fit or advantage from the use or employment of money issued
' for the services of the Navy. If his lordship had received into
' his hands such monies as were advanced by him to other depart-
' ments, and had replaced them as soon as they were repaid, he
' could not have derived any profit or advantage from such trans-
' actions, however repugnant they might be to the provisions of
' the legislature for the safe custody of the public money.'

" I think it necessary to state the following observations, in or- " der to place in their just view the grounds on which I declined " answering your questions, and which you appear not to have ac- " curately understood.

" When you first called upon me for information, I stated to " you that I had not materials on which I could frame such an " account as you required me at that time to prepare; and in a " communication with Mr. Trotter, before my examination on " the 5th of November, I learnt, for the first time, that in the ac- " counts, which he had kept, respecting my private concerns, he " had so blended his own private monies with what he had in his " hands of public money, that it was impossible for him to ascer- " tain, with precision, whether the advances which he had occa- " sion to make to me in the course of his running private account " with me, were made from the one or from the other of the ag- " gregate sums which constituted his balance with the house of " Messrs. Coutts.

" This circumstance, which I understood Mr. Trotter had him- " self distinctly communicated to you, made it impossible for me " to return any other answer than I did to the general question " which you put to me, ' Whether Mr. Trotter had applied any ' of the money issued for carrying on the current service of the ' Navy for my benefit or advantage.' And to this circumstance " I uniformly referred in my answers to other questions respecting " the manner in which Mr. Trotter applied the money in his " hands.

" When you put the question to me, ' Whether I did direct ' or authorise Mr. Trotter to lay out, or apply, or cause to be laid ' out or applied, any of the money issued for carrying on the cur- ' rent service of the Navy to my benefit or advantage?" my an-

swer

" swer was, ' to the best of my recollection I never did.' That " answer I now repeat.

" Had you proceeded to enquire whether I had ever any " understanding, expressed, or implied with Mr. Trotter, re- " specting any participation of advantages derived from the cus- " tody of the public money? or whether I at any time knowingly " derived any advantage to myself from any advances of the pub- " lic money, I should have had no hesitation in declaring as I now " do declare, that there never was any such understanding, nor " any thing like it between Mr. Trotter and myself; that I never " knowingly derived any such advantage; and that whatever " emolument accrued to Mr. Trotter, in the conduct of the pe- " cuniary concerns of the office, was, so far as I am informed, " exclusively his own.

" With respect to any advances which Mr. Trotter might " make on my private account, I considered myself as debtor to " him alone, and as standing with regard to them in no other " predicament than I should have done with any other man of " business who might be in occasional advance to me in the " general management of my concerns entrusted to him.

" It is impossible for me to ascertain from any documents " or vouchers in my hands, or now existing, what the extent " of these advances may have been at any particular period. " The accounts which you have inserted in your report I never " saw, till I saw them in the report itself. They are no accounts " of mine, nor am I a party of them. They contain a variety of " sums issued nominally to me, which never came into my hands; " and they give no credit for the various sums received by Mr. " Trotter on my private account, from my salary as Treasurer of " the Navy, and from other sources of income of which he was in " the receipt. Nor do they take any notice of the securities of " which he was in possession for the re-payment of any balance at " any time due to him from my private funds.

" With respect to the sums of naval money advanced to me, " and applied to other services, I do not feel it necessary to make " any additional observations, except to declare that all those " sums were returned to the fund from which they were taken, " having in no instance been withdrawn from it for any purpose " of private emolument or advantage.

" Before I conclude I wish to correct an inaccuracy, which I " observe in one part of my evidence.

" In Appendix, No, 7, page 192, the question is put to me, ' Did you derive any profit or advantage from the use or employ- ' ment of public money issued for carrying on the current service ' of the navy, between the 19th August, 1782, and the 30th April, ' 1783, or between the 1st of February, 1784, and the 31st of ' December, 1785, during which periods you held the office of ' Treasurer of the navy?' which question I there answer by a

" reference

" reference to an answer given to a similar question put to me " before.

" This answer is inaccurate, in so far as it contains a refer- " ence to Mr. Trotter's mode of blending his funds in his private " accounts with Messrs. Coutts.

" Mr. Trotter was not Paymaster till the year 1786.

" The circumstances, therefore, relative to Mr. Trotter's ac- " count, which precluded my returning an answer to your former " question, do not apply to the periods specified in that last-men- " tioned.

" And I can therefore have no difficulty in declaring, that du- " ring those periods I did not derive any advantage from the use " or employment of money issued for carrying on the service of " the navy.

" Having stated these facts, it is almost unnecessary for me to " add that I am ready at any time to verify them by my oath.

" I am, Gentlemen,
" Your most obedient, humble servant,
" MELVILLE."

Read the following entry in a book entitled the Precept Book.

" *Right Honorable Lord Viscount Melville*

" Requiring to be furnished with an account of monies (exclusive of your salary as Treasurer of the Navy,) received by you or any person on your account or your order, from the paymaster of the navy, between the 1st of July, 1785, and 31st of December, 1800, specifying the times when such monies were received, and also the times when, and the person by whom the same were returned to the Bank or the paymaster."

The witness said,—I believe there was no letter written to Lord Melville; but that letter which was received by the board from Lord Melville of the 30th of June, was in consequence of that precept of which the account has been read from the book, I am not aware of any letter.

Question by manager. Was any note or letter sent to Lord Melville requiring attendance?

A. I am not aware that there was any note or letter sent but the precept: subsequent to that time there was a letter written to Lord Melville, desiring him to appoint some time when it might be convenient to him to attend.

By counsel. Q. That is the letter which is desired to have read.

Then the paper was delivered in and read as follows:

" *Great George Street, 2d April,* 1805.

" MY LORD,

" WE have received your lordship's letter of the 28th of last " month, by which you intimate that we appear not to have ac-

" curately

" curately understood the grounds upon which you declined " answering our questions, and submit to us some observations in " order to place those grounds in their just view, and also express " a wish, before you conclude, to correct an inaccuracy in one " part of your evidence, and a readiness to verify by your oath " the facts stated in that letter. If it be the object of this com- " munication that we should again require your lordship's attend- " ance for the purpose of being examined touching these matters, " and that we should make a supplemental report upon the result " of that examination, and such other examinations as we might " thereupon judge necessary, there can be no disinclination on our " part (as far as we are concerned in the proceeding,) to meet your " Lordship's wishes; but it appears to us, that the enquiry, which " is the subject of the tenth report, has attained that period, when " it would not become us to adopt such a measure, merely upon " the suggestion of any of the parties to whose conduct that report " relates.

" We were occupied several months in investigating the mode " of conducting the business of the office of Treasurer of the Navy. " Those who were examined by us had the fullest opportunity of " stating and explaining all things which related to the manage- " ment of that department, or to the share which they respec- " tively had in it, and of correcting at any time during the pro- " gress of the inquiry any mistakes which might inadvertently " have been made. Our opinions and observations upon the irre- " gularities and abuses which we discovered, were formed and " drawn up with the utmost care and deliberation, and they are " now submitted to the three branches of the legislature as the " act by which we are appointed requires. If it could be made " to appear, upon a representation to them, that any thing has " been omitted on our part, that any misunderstanding or error " had occurred, and that a further enquiry is advisable upon these " or any other grounds, it would be for them to direct such " further enquiry, and to decide by whom and in what manner it " should be prosecuted. But in the present circumstances it " appears to us that we cannot with propriety resume it.

" We have the honor to be,
" My Lord,
" Your Lordship's most obedient servants,
" C. M. Pole,
" Ewan Law,
" John Ford,
" Henry Nichols,
" W. Mackworth Praed.

" To the Right Hon. Lord Viscount Melville."

The witness was desired to withdraw.

Mr. Archibald Douglas recalled, and examined as follows.

Q. Do you know the hand writing in the book now before you?
A. Perfectly well.
Q. What does the book purport it to be?
A. The Right Hon. Henry Dundas, Treasurer of the Navy; his iron chest in the office cash book.
Q. Whose hand writing is that?
A. It is the hand writing of my late father, Andrew Douglas.

The witness ordered to withdraw.

Mr. John Winter called again, and examined as follows.

Q. Do you know that book?
A. I do.
Q. Has that book been in your possession for any time?
A. It has been in my possession ever since I found it among the papers delivered by the widow of the late Mr. Douglas to the committee.
Q. Where were those contained?
A. In a box of papers in the house of Mr. Douglas.
Q. Was it in the same box in which the banking books produced yesterday were found?
A. Yes.
Q. Are you sure it was the very same box?
A. No doubt about it.

The managers for the Commons desired it to be read.
The evidence was objected to by the counsel for Viscount Melville.

The witness was directed to withdraw.

Mr. George Swaffield recalled, and examined as follows.

Q. Whether, according to your recollection prior to 1786, there was an iron chest for depositing cash in the office of the Treasurer of the Navy?
A. There was.
Q. Whether such money as was received at the Exchequer, and not put to the credit of the Treasurer of the Navy, was deposited in the iron chest in the office?
A. I can only say that that iron chest was for the purpose of locking up the money.
Q. Do you know that in the regular course of the office there was an account kept of the money so deposited in that iron chest?
A. I never saw such an account.
Q. Do you know by whom the money was so deposited in this iron chest?
A. I believe the paymaster in general deposited his money there?
By a Peer. Q. Do you know it?
A. I do.
Q. Do you know whether the money which was from time to time received at the Exchequer, or any part of it, was deposited in that iron chest?
A. I do not.

By

By a Peer. Q. Who kept the key of the iron chest?

A. The paymaster had always those keys in his possession.

The managers for the Commons and the counsel for Viscount Melville having been heard, were informed that the book was not admissible.

Mr. Thomas Dodd was called in, and being sworn was examined as follows:

Q. Whether you were clerk of Messrs. Moffat and Kensington in November 1782?

A. The firm of the house was Wickenden, Moffat, Kensington, and Bowler, at that period: I was clerk at that time.

Q. What book is that which you now hold in your hand?

A. This is the bill book of that house, which I then kept.

Q. Were they bankers in London?

A. Yes.

Q. Is there any entry in that bill book in your hand writing, which enables you to state that a bill of one thousand pounds payable by the Lord Advocate of Scotland was paid on that day, the 22d of November?

A. Here is an entry made by me on the 20th of November, shewing that a bill so drawn was paid in on that day, due the 22d, for 1000l. in my writing, but this does not shew that it was then paid; another book will shew that, which is called the Goldsmith's book.

Cross-examined.

Q. Was the bill presented to you of which you read the entry?

A. This entry was made from the bill itself by me, as all entries in this book were.

Q. Was the bill presented to you by the person bringing it to the house?

A. It was entered by me among fourteen or sixteen other bills received at the same time from Sir William Forbes and Company; it is entered amongst them under the date of the 20th of November, in my handwriting?

Q. It is to be understood that it was given to you among a number of other bills that had been brought in, and were lying in the house?

A. It was brought in that day by the post, in all probability; that was the usual mode of their sending their bills.

Q. Who gave you the bill?

A. The custom of the house was to put all bills that were paid in a certain box, with the name of the party who had paid them in written on the outer bill, and this appears to be one of the number which I have entered.

Q. After the bill was entered by you, in whose custody did that bill remain?

A. It was usual to take all bills that were accepted, after being entered, into the counting-house to be locked up in a strong box; but if they were unaccepted, they were delivered out to the clerk to take them for the purpose of acceptance; but I cannot say whether this was an accepted bill or not, it appears it was due two days afterwards, the 22d of the same month.

Q. Then all you know about the bill is, that it came to the house by some means or other, and was laid before you to be noted in that book?

A. Nothing more.

Re-examined.

Q. Did the bill come to your house to be paid, or to receive payment of it?

A. To receive payment of it?

Q. Will the time and the manner in which that house received payment of the bill, appear by the Goldsmith's book to which you have referred?

A. Yes it will.

Q. Read the entry.

"November 20th. Lord Advocate of Scotland, per J. Biggin and Co. 22d Nov. 1000l."

The witness was directed to withdraw.

Then Mr. Scott was called in again, and examined as follows:

Q. Is there any entry in that book in your hand-writing, by which you can state the date and the mode in which that bill was paid?

A. It is entered here, K. 12. 24th October, 1000l.

Q. What does that entry relate to?

A. A bill on the Lord Advocate of Scotland.

Q. Is there any reference to the folio of your bill book?

A. There is, it is 699.

Mr. Dodd was called in again, and examined as follows:

Q. What was the folio of your bill book in which that entry appears?

A. It is 699.

By a Peer. Q. Whether, as you have used in the entry the words "Lord Advocate of Scotland," those words were upon the face of the bill?

A. It is impossible for me to recollect at this time; I was in the habit of copying at the time what was written upon the bill, and I have no doubt that the bill was so addressed.

The witness was directed to withdraw.

Mr. George Fennell was called in again, and examined.

Q. What books are those you now produce; are they the public books of the Navy Pay Office?

A. They are; this purports to be the certificate book of the Navy Board.

Q. Can you, by reference to this book, state the balance in the Treasurer's hand on the 30th of April 1783?

A. I can as it appears by the books; the Treasurer's balance under the head of Navy on the 30th of April 1783, is 42,201l. 7s. 1d.

Q. State the balance under the other two heads?

A. The Treasurer's balance on the same day under the head of pay

or wages, the pay branch is 37,856l. and under the head of victualling 9,351l 4s. 4d. making together a total of 89,408l. 12s. 3d.

Then the following entry was read in the banking book: "1783, April 29th, by balance to new account 66,408l. 12s. 3d." The clerk read "the 24th June 1783, Bank note 1000l."

The witness was directed to withdraw.

Mr. Henry Callandar was called, and being sworn was examined as follows:

Q. Were you acquainted with the house of Muir and Atkinson, and did you hold any situation in it?

A. I was acquainted with the house.

Q. Did you hold any situation in the house?

A. Formerly, but not of late years.

Q. In the year 1783?

A. I was in the house then.

Q. Were you acquainted with the hand-writing of Mr. Dixon?

A. Perfectly.

Q. What situation did Mr. Dixon hold in the house?

A. Book-keeper of Messrs Muir.

Q. Did he draw upon their bankers?

A. He did for the house.

Q. Is the signature to the draft you now hold in your hand of Mr. Dixon?

A. Most undoubtedly.

Q. What is that?

A. It is a draft on Messrs. Smith and Payne, payable to the Lord Advocate, for the sum of 5000l.; it is dated 2d July,

The same was read as follows:

George-street, Mansion-House, July 2d, 1783.

No. 5620.

Messrs. Smith, Payne, and Smith.

Pay to the Lord Advocate or bearer five thousand pounds.

For Muir and Co.

L 5000. JOHN DIXON.

Mr. John Hayne was called, and being sworn was examined.

Q. Were you clerk to Messrs. Smith, Payne, and Smith, in the year 1789?"

A. I was.

Q. Look at that draft. Can you state whether you paid that draft to Messrs. Smith, Payne, and Smith?

A. I cannot.

Q. Can you by reference to any books of that house know whether you paid that draft?

A. I can know my own hand writing when it is produced.

Q. Look at that book now before you, and state whether that is your hand writing?

A. It is.

Q. Does

Q. Does that enable you to state whether you paid that draft or not?

A. This draft is entered by me, but the Bank notes were paid and entered by another clerk who is since dead.

Q. Is that draft entered by you as a draft that was paid?

A. It is.

Q. Will it appear by any book belonging to that house in what Bank notes that draft was paid?

A. It appears by this book what notes were paid and no other, I presume.

Q. Is the entry by which the numbers and dates of the notes appear your hand writing?

A. The notes paid are not in my hand writing.

Q. In whose hand writing is that part of the entry which is not in your hand writing?

A. That is the payment of the notes which was made by a gentleman in the house who is since dead; I believe it was made by him, but will not swear that.

Q. Is the description of the notes entered by you?

A. No they are not.

Then the following entry was read from the banking book

"Old account, Right Hon. Henry Dundas, Bank 1782, 1783, July 2d, Bank notes, Clifford, £5000."

Then Mr. Thomas Rippon was called again, and examined as follows:

Q Look at those Bank notes; is that your hand writing at the back of them?

A. It is not.

Q. Do you know whose hand writing it is?

A. I do; it is the hand writing of a person of the name of John Clifford, who at that time was the senior clerk in the drawing office at the Bank."

Q. Is he dead?

A. He is dead.

Q. Whose hand writing is the entry in the Bank book of the receipt of the 5000l.

A. The entry is made by the same person, John Clifford.

The clerk read "July 12, 1783. Ditto Clifford 1400l.

Q. What is ditto to?

A. Bank notes.

The clerk read, "July 11 1783, Ditto; (that is Bank notes) Clifford, 6000l.

The witness was directed to withdraw.

Mr. Henry Callandar was called in again and examined as follows:

Q. Do you know the hand writing and signature of that draft?

A. I do.

Q. Whose

Q. Whose hand writing is it?

A. The late Mr. Atkinson's.

Q. That is a draft upon Smith, Payne, and Smith, the bankers of Mr. Atkinson, is it not?

A. Yes.

It was read "11 July, pay to the Right Hon. Henry Dundas six thousand pounds, Muir, Atkinson, and Muir." Drawn on Messrs. Smith, Payne, and Smith, the bankers of the house.

The witness was directed to withdraw.

Mr. Daniel Dyke Edgar was called, and being sworn, was examined as follows:

Q. Were you a clerk in the house of Messrs. Smith, Payne, and Smith, in the year 1783?

A. Yes.

Q. Do you know any thing of the payment of the draft you now hold in your hand?

A. No more than by the waste book.

Q. Is the waste book in your hand writing?

A. Yes.

Q. Can you refer to the entry in the waste book respecting that draft?

A. Yes.

Q. Can you state from that entry when you paid that draft?

A. I made a payment of 6000l. on the 11th of July, as appears by the waste book, in six bank notes, of 1000l. each, the entry is in my own hand writing.

Read the whole of the entry—D 261 to 276 that should be sixty-six; I apprehend they are following numbers.

Read the whole entry—Letter B 261 to 267, there is against the draft put 6000l. from Muir and Co.

Q. Look at these notes, and see whether they are the notes you gave in payment of that draft?

A. The numbers are not entered correctly, but I verily believe they are the notes that were paid.

Q. Is there any one of those notes which you can state to have been paid by you on that day in payment of that draft?

A. B 261, B 262, B 263. They are not so entered in the book, they are put short B 261 to 262.

Q. Can you state by that entry that you paid any more of those notes, and how many in payment of that draft?

A. One of the notes is entered wrong; instead of 276 it should be 267.

Q. Can you state that you paid any of those notes?

A. Yes, B 261 for 1000l.; B 262 for 1000l.; B 263 for 1000l.; B 264 for 1000l.

Q. Then these are four of the notes you have spoken to?

A. Yes.

Q. Read the other two notes.

A. B 266, 1000l. (there is no 265,) and B 267, 1000l.

Cross-

Cross-examined.

Q. Whether you have any remembrance of the transaction itself, except from the entry in the book?

A. None but from the entry as it appears on the book.

Q. Is there any thing upon the face of the notes, that enables you to say, that these are the identical notes that you paid?

A. No, there is nothing.

By a Peer. Q. What dates are those notes; are they all of the same date?

A. We do not enter the dates in the waste book.

By a manager. The notes themselves are dated 7 July, 1783; now I propose to prove a sum to the amount of those notes paid into the Bank.

By counsel. Q. Is there any circumstance that enables you to state now, whether the first of these numbers might not be 271 or 270 leading in a series to 276?

A. It appears by the entry to begin with B 261.

Q. But as there must be a mistake either in the commencement or the termination, I wish to know whether there is any circumstance that enables you to know where the mistake is?

A. I cannot, but from the entry as it stands in the book.

Q. Can you say whether the mistake was one way, or the other way?

A. I cannot.

Q. Whether, judging from the entry alone, you would suppose that the notes are in regular series, ending at 276?

A. Yes, but the error lies in entering 276 instead of 266; I apprehend so.

By a Peer. Q. The question is, why do you apprehend so any more than that the error should be at the beginning of the series?

A. It is the usual mode of entering them, when they are following numbers.

Q. The notes presented to you now, appear to be in an uninterrupted series?

A. It is an error, I apprehend.

Q. These do not follow in a regular series; there is no 265, therefore they do not follow in a regular series.

A. The notes that have been presented to me do not.

By the counsel. Q. Then I understand that the notes presented to you do not correspond in precise numbers, nor are they a regular series?

A. No.

By the managers. Q. The witness does not identify them all; but there are four that correspond and to which he speaks.

By a Peer. Q. Can you swear positively that No. 261, 2, 3, and 4, that you now hold in your hand, are the identical notes paid by you?

A. I cannot swear positively, because the numbers are not taken down 1, 2, 3, 4.

By a manager. Q. Can you swear that any one of these notes was paid by you for that draft?

A. The 261 was paid by me, as appears by the entry.

By counsel. Q. Have you any reason for saying that the identical note was paid by you, other than from the correspondence of the figures with the entry in your book?

A. Only from the number; I have not the date of the Bank note, only the letter and the number.

Q. And

Q. And the sum?

A. The sum is carried out altogether 6000l.

Q. Does any thing from the entry shew, that each of the notes was for 1000l.?

A. By an entry B 261 to six single notes, make six thousand pound notes.

Q. Have you any other way of knowing that each note was for 1000l, excepting that the sum total for the six notes was 6,000l.?

A. No, I have not.

By a manager. Q. Have you any doubt that these notes you have spoken to are the notes you have paid on the account of that draft?

A. No doubt upon my mind at all; I am well satisfied that I paid 6000l. on that day for the 6000l draft.

By a Peer. Q. Whether Bank of England notes, bearing the same number and letter, but a different date, that were issued on a different day, might not have come into your hands, as well as those bearing the date which appears upon the face of these notes?

A. I think it is possible it might be so; we do not take the date, only the sum in the waste book.

By a Manager. Q. Whether there is any other book kept at Messrs. Smith, Payne, and Smith's, by which the dates of these notes might be ascertained?

A. I apprehend there is.

Q. What is the book?

A. The Bank note book, I apprehend. I have left the house a great many years. I think we could trace all the numbers.

The witness was directed to withdraw.

Mr. Henry Callandar was called in again, and examined.

Q. Do you know in whose hand writing the signature to that draft is?

A. I do.

Q. Whose hand is it?

A. It is the signature of Mr. Dixon for Muir and Co.

Q. What is the draft?

A. "31st July, 1783, Messrs. Smith, Payne, and Smith, pay to Mr. Henry Dundas, or bearer, two thousand pounds.

"For Muir and Co.

L 2000. "JOHN DIXON.

Mr. George Payne was called, and being sworn, was examined as follows:

Q. Can you state at what time, and in what manner that draft for 2000l. was paid by the house of Smith, Payne, and Smith?

A. This draft was for 2000l. The entry is for 4476l. 10s. 10d.

Q. Is that entry your own hand writing?

A. It is my own hand writing?

Q. Can you state whether the draft you hold in your hand was included in that sum?

A. By a reference to the cash book and the ledger, it appears that this draft of 2000l. composed a part of the transaction of 4000l.

Q. What is the denomination of this book?

A. The waste book.

By a manager. Q. Can you state from this entry, or any other entry in your own hand writing, whether you paid any other draft on that day?

A. It is impossible for me to swear that this is the draft I paid.

Q. Did you pay any draft for 2000l. drawn by Muir and Atkinson on that day?

A. There was no other draft on that day payable to the same name of 2000l.

Q. Are you now speaking from the book and the entry in your own hand writing before you?

A. The entry here is in my hand writing. I have referred from this entry to the cash book and ledger, I there found that there were two drafts.

Q. Were the cash book and ledger in your hand writing?

A. No.

Q. Can you state from that entry what Bank notes you paid on that day in respect of a draft for 2000l. drawn by Muir and Atkinson upon the house of Smith, Payne, and Smith?

A. I paid two drafts at the same time; what particular notes went to the payment of those drafts, it is impossible for me to say.

Q. Can you state what Bank notes you paid in respect of the two drafts?

A. They are here.

By a Peer. Q. Is that entry in your own hand writing?

A. Yes.

Q. Read it.

It was read as follows:

C 172	1,000	0	0	4,476	10 10
K 959	1,000	0	0	Muir and Co.	
K 869	1,000	0	0		
H 409	1,000	0	0		
B 77	400	0	0		
R 37	50	0	0		
C 16	20	0	0		
Mo.	6	10	10		
	4,476	10	10		

By a manager. Q. Looking at these notes, can you state whether there are two of the notes that you paid in respect of these drafts of Muir and Atkinson on that day?

A. They are the same numbers, but it is impossible for me to say that they are the same notes which I entered.

Q. Are they the same letters and sums?

A. They are the same numbers.

Q. Do not the sums and the letters appear in the waste book as you have entered them?

A. Yes.

Q. Do they correspond with the notes which I have put into your hand?

A. They correspond with the entry in my hand writing.

Cross

Cross-examined.

Q. Have you any recollection of the transaction in question, except from the entry in the book before you?

A. Assuredly not.

Q. Is that the only book in which there is any entry on this subject in your own hand writing?

A. This is the only book in which there is any entry on the subject in my hand writing.

Q. Is there any notice taken in that entry in the book which is in your own hand writing, of the draft which you have in your hand?

A. No.

Q. Then, from the entry alone, could you say that the payment of 4,476l. 10s. 10d. comprehended the account in question, judging from that book alone?

A. I can have no knowledge from this, that it comprehended this draft.

The clerk read, "June 31, 1788, Bank notes, Clifford, 2000l."

FIFTH DAY.

SATURDAY, MAY 3D.

MR. Whitbread. "The first evidence which the Managers will submit to the attention of your Lordships this morning, will respect a certain quantity of bank notes, regarding which there was the appearance of some mistake in the entry of the proceedings of yesterday. The fact is, there is no mistake, but the witness was somewhat confused, and did not clearly explain himself. There was a misapprehension about the numbers of the notes, from an abridgment in the figures. After some farther remarks,

Thomas Edgar was again called, and examined by Mr. Whitbread.

The following entry was read from the waste book of Messrs. Smith, Payne, and Smith.

B. 261 to 7 6 6000 6000 Muir and Co.

Q. Do you mean by that six notes of a thousand pounds each?

A. Yes.

Q. Do you mean that the number 261, and the figures following that afterwards 67, denote that they are of one series, 261 to 267?

A. There is a mistake, for 261 to 7 would make seven notes. It appears by other books that the numbers paid for this were 261. 2. 3. 4. 6. 7.

Q. Before the witness speaks of other notes, it is wished to know whether those other books are in his own hand-writing?

A. The note of 1000l. omitted here, is in my own hand-writing.

Q. Whether those figures 261, with the addition of the figure 7, were not meant to comprehend the notes between 261 and 267?

This question was objected to, as a leading question; the witness was therefore asked

Q. What do the figures commencing 261, and the figure 7 following that 261 denote?

A. They should denote six notes, but they do not.

Q. What is it they do denote?

A. They denote seven instead of six.

Q. How do you account for the seventh note, which you say is there denoted?

A. No. B. 265, was not paid with those notes.

Q. It

Q. It is wished to refer the witness to another entry in the same book, to account for that note, No. 265. Have you any entry in your own hand-writing that connects itself with No. 265?

A. Yes, the entry is in my own hand-writing.

Q. What became of that note?

A. It was paid to Walpole and Co. bankers, in Lombard Street.

Q. Was that 265 also a note of 1000l.?

A. Yes.

Mr. Plomer. Q. Proceed to explain the mistake you before stated to the Court, that belonged to that first entry of the 11th of July, 1783.

A. By entering the 261 to 7, in this method of entering, it is supposed that these are all following numbers, 1, 2, 3, 4, 5, 6, 7; but in the entry 5 is not among them.

Q. How came you yesterday to represent that the numbers were in a series from 261 to 276, whereas you say now that the figures seven and six are not to be considered as seventy-six, but as a seven and a six?

A. The entry terminates with the figure seven; and that six should have had a dot between it, to import six thousand pounds.

Q. If nothing but that entry had been presented to you, without any opportunity of referring to any entry in any other book, or to notes, could you have put the construction upon the entry which you are now giving, or that you put upon it yesterday?

A. I should have supposed, looking at the entry as it stands, that I had paid the person 1000l. too much.

Q. Do you now mean to state, after all that has passed since you were examined upon the subject, that any thing that has been shewn you brings back to your recollection any thing upon the subject, or only that it is by comparing those notes with the entry, that you draw that conclusion from it; had you any distinct memory of it beyond that which your entry itself imports?

A. No, I could not have answered it but from reference to the books.

Q. You have referred to another entry, relative to a sum of 1,661l. it is desired to know whether that entry does not import that there was money or drafts to that amount paid into the house by Walpole and Co. or that it was paid out of the house?

A. It was paid to some clerk of Walpole's, who goes round to receive monies.

Q. Are you to be understood that the bank note, B. 265, which is one of the notes described in that latter entry, relates to a bank note that was paid by the house in which you were a clerk, to a clerk in the house of Walpole and Co.?

A. Yes.

Q. What do you consider to be a sufficient description to distinguish one note from another?

A. Entering it from number 1 to 5, or 10, or whatever number it may terminate with.

Q. Do you consider the number of a note to be sufficient to distinguish it from all other notes, without the addition of a date?

A. No, it is not sufficient.

Q. Do the dates of those notes appear upon the face of the entry that you have referred to?

A. No.

Q. Then,

Q. Then, if the date be necessary to identify a bank note as well as the number, as you have not entered the dates, how do you know that the notes presented to you are identically the same notes as appear in your entry?

A. I cannot take upon me to swear that these are the identical notes.

Q. Whether, having looked and attended to both the entries in your own hand-writing, you can take upon you to say that the entry, as it relates to the payment of the notes, beginning 261, was a payment of 6000l. on that day?

A. Yes.

Q. Can you take upon you to swear that, taking into consideration both the entries?

A. I paid 6000l. certainly to this draft of Muir's of 6000l.

Q. Taking both your entries into consideration, you can swear that you paid at the second time 261. B. 2, 3, 4, 6, and 267?

A. I verily believe it is so.

Q. The question is, having both entries before you, can you swear to that fact?

A. I can swear that I paid 6000l. against the draft of 6000l.

Q. Look at the entry in your book of the payment to Muir and Atkinson, whether it does not appear that the entry, No. 265, was paid to Muir and Atkinson?

A. Yes, it does appear so.

Q. Look at the entry in your book of the payment to Walpole, whether it does not appear from that entry that 265 was paid to Walpole?

A. Yes.

Q Whether you have any other knowledge of the first than what you derive from those two entries?

A. In the bank note book the evening preceding this transaction.

Q. Is that bank note book you allude to in your own writing?

A. No.

Q. Whether you have from any other entry in your own writing, or from your recollection, any knowledge of the fact but what you derive from those two entries?

A. No.

Q. Whether, having stated the one entry imports that number 265 was paid to Muir and Atkinson, and that the other entry imports that 265 was paid to Walpole, you will take upon yourself to swear in which of those entries the mistake exists?

A. It appears to me very clear, that the mistake lies in the entry of the payment made to Muir.

Q. You having stated in your examination to day, that the evidence which you had given yesterday, with regard to this figure, was founded in mistake; whether that mistake occurred to yourself, or whether it was suggested to you by any other person?

A. I discovered the mistake yesterday in calling over the notes, and comparing them with the book, I found it immediately; and I did not know of the mistake before.

Q. Whether upon looking at the draft which was paid to Muir and Atkinson, and looking at the entry which you say was an entry of what was paid, you can take upon you to say whether 6,000l. or 7,000l. was paid.

A. 6,000l.

Q. Whether,

Q. Whether taking all the circumstances which you have been communicating that you were acquainted with into consideration, you are satisfied that the explanation you have given now to the house is correct?

A. I am satisfied that no more than 6000l. was paid to the house of Muir and Atkinson.

Q. You are understood to have sworn yesterday positively, that these notes were the identical notes which you have paid; you are now called upon to explain how it is that to day you say you cannot give the same evidence; you cannot swear to the identity of the notes?

A. I cannot recollect that I swore to the identity of the notes: if I did so, I was wrong. I could not swear to the identity of the notes no marks being upon them.

Q. Does that entry refer to a payment of 6000l. which was made at one time?

A. Yes.

Q. Whether figure 6 following the conclusion of the series you can say that you have any recollection of that figure 6 following the series, in order to denote that by mistake the entry would exhibit the payment of a larger sum than you had made?

A. It was made at the time.

Q. Do you know the hand writing of that book?

A. I do not.

The witness was directed to withdraw.

Mr. Thomas Ryle called, sworn, and examined, as follows:

Q. Are you a clerk in the house of Smith, Payne, and Smith?

A. Yes.

Q. What is that book you have in your hand?

A. A bank note book.

Q. Refer to an entry of the 7th of July, 1783, relating to six bank notes of 1000l. each, paid out of the house on that day. Is that entry in your own hand writing?

A. No.

Q. In whose hand writing is it?

A. William Cunningham's

Q. Is William Cunningham living or dead?

A. He is gone abroad, I believe he is dead.

Q. Can you swear that this is the hand writing of William Cunningham?

By a Peer. Q. Have you seen William Cunningham write?

A. Yes, I have.

Q. Do you believe that to be his hand writing?

A. I do.

The witness was directed to withdraw.

Mr. Henry Callandar recalled.

Q. Are the papers you hold in your hand part of the papers of Muir

A. They are.

Q. Do you hold them for the assignees?

A. They are held for the assignees.

Q. Have

Q. Have you any draft drawn by Lord Melville upon the house of Muir and Atkinson?

A. I hold in my hand a draft, dated Edinburgh, drawn by Henry Dundas upon Richard Atkinson; and, I believe it may save trouble, if I add that I do not apprehend that any draft of his Lordship's was ever drawn upon the house; they are all upon Richard Atkinson.

Q. Was Mr. Atkinson a partner in that house?

A. Certainly.

Q. Are you acquainted with the hand writing of Lord Melville?

A. Certainly not.

The counsel for Viscount Melville stated that if the drafts were shewn to them they would admit every one that appeared to be his Lordship's hand writing. Upon which a variety of papers were shewn to them and the same were afterwards read to them, as follows:——

300l. sterling. Edinburgh, 10th of August, 1781.

Paid 20th of August.

Pay to Mr. John Spottiswoode, or order, the sum of three hundred pounds sterling, on account of

HENRY DUNDAS.

Richard Atkinson, Esq. London.

(Indorsed)

Received, John Spottiswoode.

(Witness) John Jolly.

300l. sterling. Edinburgh, 22d of November, 1801.

Pay Mr. Newbegging, or order three hundred pounds sterling.

HENRY DUNDAS.

To Richard Atkinson, Esq. Fenchurch-street.

(Indorsed)

J. Newbegging.

Pay Sir Robert Herries and Co. or order, value on account.

W. Forbes, J. Hender, and Co.

Received for Robert Herries and Co.

H. Goldicutt.

500l.

500l. sterling. Edinburgh, 17th of January, 1782.

Pay Mr. James Newbegging, or order, five hundred pounds sterling.

HENRY DUNDAS.

To Richard Atkinson, Esq.
Fenchurch-street, London.

(Indorsed)
J. Newbegging.

Pay Messrs. Wickenden, Moffat, and Co. or order, value on account.

W. Forbes, J. Hunter, and Co.

Received.
Wickenden, Moffat, Kensington, and Bold.
(Witness,) J. Beete.

200l. sterling. Edinburgh, 12th of September, 1782.

Pay to William Bell, or order, two hundred pounds sterling, on account of

HENRY DUNDAS.

Richard Atkinson, Esq.
Fenchurch-street, London.

(Indorsed)

Pay to Messrs. Mansfield, Ramsey, and Co. or order, value received.

William Bell.

500l. Edinburgh, 14th of October, 1782.

On demand, pay to William Bell, or order, the sum of five hundred pounds sterling.

HENRY DUNDAS.

To Richard Atkinson, Esq.
Fenchurch-street, London.

(Indorsed)

Pay to Messrs. Mansfield, Ramsey, and Co. or order, value received.

William Bell.

Pay to Thomas Coutts, and company, or order, value on account.

Mansfield, Ramsey, and Co.
Received for Thomas Coutts, and Co.
J. Wild.

May 22d, 1781.

Messrs. Smith, Payne, and Smith.

Pay the Lord Advocate, or bearer, three hundred pounds

Muir, Atkinson, and Muir.

300l.

(Indorsed)

Henry Dundas.

Pay to Thomas Coutts, Esq. and Comp. or order, value on account.

Mansfield, Ramsey and Co.
Received for Thomas Coutts and Co.
J. Wild.

Edinburgh, 19th September, 1782.

On demand, pay to Messrs. Bell and Rannie, of Leith, or their order, five hundred pounds sterling.

HENRY DUNDAS.

To Richard Atkinson, Esq. Fenchurch-street, London.

(Indorsed)

Pay to Messrs. Mansfield, Ramsay, and Co. or order, value received.

Bell and Rannie.

Pay to Thomas Coutts, Esq. and Co. or order, value on account.

Mansfield, Ramsey, and Co.
Received for Thomas Coutts, and Co.
J. Wild.

500l. sterling. Edinburgh, 23d September, 1782.

Pay to Sir William Forbes, J. Hunter, and Co. five hundred pounds sterling to account of

HENRY DUNDAS.

To Richard Atkinson, Esq. Fenchurch-street, London.

(Indorsed)

Pay to the order of Messrs. Wickenden, Moffat, and Co. value on account.

W. Forbes, J. Hunter, and Co.
Received for Wickenden, Moffat, and Co.
G. Scott.

Cross-

Cross-examined.

Q. At what time did you come into the counting house of Messrs. Muir and Atkinson,

A. In the year 1775.

Q. How long did you continue there?

A. About seven years.

Q. Do you know, or did you know that there was any intercourse between Lord Melville and Muir and Atkinson's house, on the subject of Colonel Dundas, Lord Melville's brother?

A. Not any knowledge whatever.

Q. Do you know the origin of any of those transactions to which these bills relate?

A. Not in the slightest degree but from the books of the house.

Q. Is this the first bill that has been submitted to your attention?

A. It certainly is.

Q. Did you go to America on the business of Messrs. Muir and Atkinson?

A. Yes, in the year 1776.

Q. When did you return from thence?

A. In the winter of the same year.

Q. Did you continue connected in business, or in the knowledge of the business of Messrs. Muir and Atkinson after that time?

A. Not otherwise than by the books, which I have seen and perused. I was in the habit of corresponding with Mr. Atkinson, on the public business entrusted to my care.

Q. Did you know the circumstances of that mercantile house, in 1783?

A. I certainly think I did.

Q. Was that mercantile house in good credit in 1783?

A. I am perfectly satisfied in my own mind that they were.

Q. How long did they continue to be a house in good credit?

A. For many years subsequent to that period.

The witness was directed to withdraw.

Mr. Thomas Oliver called and examined, as follows:

By Counsel. Q. When did interest first begin to be charged upon Lord Melville?

A. From the 29th of April, 1784.

Q. How much was the total interest charged from that period to 1800 without going into particulars?

By a Peer. Q. From what documents are you now speaking?

A. I selected from the ledger the different charges made for interest.

By Counsel. Q. Have you any knowledge upon the subject excepting what you collect from the books?

A. Many of the interest accounts were made out by myself.

Q. Did you settle those accounts with Lord Melville?

A. No.

Q. Were the accounts sent to his Lordship?

A. No.

Q. What do you mean by made out?

A. The calculation upon the sums advanced.

Q. Calculations in the book?

A. Calculations upon paper of the different advances from period to period and at the end of each year charges were made.

Q. Do you speak of calculations made at the time in the course of your business as a clerk of that house?

A. As a clerk of that house during the time I was in that department.

Q. You did make a calculation of interest then?

A. I did.

Q. Are those papers upon which you made that calculation of interest now in existence?

A. I believe in court, along with the rest of Lord Melville's vouchers?

Q. Have you delivered that calculation to the solicitor employed by the managers?

A. I believe all the calculations were with the vouchers.

Q In whose possession are the vouchers, and those calculations?

A. They were delivered to Mr. Kaye yesterday morning.

The witness was directed to withdraw.

Mr. Fennel was again called in and examined as follows:

Q. What was the balance in the Treasurer of the Navy's hands on the 31st of July, 1783?

A. It appears from the certificate-books, and the cashier of the Victualling Journal.

Q. Are the books you are now about to refer to public official books in the Navy Pay Office?

A. Two of them are for the Navy Branch.

Q. Is this one of them?

A. It is.

Q What was the balance on the Navy Branch?

By Counsel. Q. What is this book, how is it made, and how are the balances in it ascertained?

A. It is the certificate-book of the Navy Branch, made by one of the clerks.

Q. Who is the clerk that made it out?

A. The clerk who made out this certificate was John Slade, jun. at that time.

Q. Is that gentleman living or not?

A. He is living, and now on service at Chatham.

Q. Have you any knowledge upon the subject of the balances, except what you collect from the entries of this John Slade, jun. who is now at Chatham?

A. No, none whatever, but from these books.

Q. And how Mr. Slade knew what the balances were that are entered in the books you do not know?

A. Not particularly.

Q. You are understood to call them certificate-books; are not the certificate-books signed by the Paymaster, and are those books so signed?

A. The certificate-books are not signed by the Paymaster.

Q. And these are not signed, are they?

A. They are not signed by any one.

Q. Are the certificate-books transmitted to the Navy Office?

A. No.

A. No, but copies from them are made out and signed by the Paymaster, and sent to the Navy Board.

Q. This book is not a copy of a certificate-book made and signed by the Paymaster?

A. No it is not.

Q. Do you mean to say that those books, signed by the Paymaster, and sent to the Navy Board, are copies of the whole of this book?

A. They are monthly certificates, made out generally from the 1st to the 14th of every month, and afterwards from the 15th to the end of the month, except the Pay Branch, where the accounts are made up monthly; the Navy and Victualling twice a month.

Q. Do the certificates so signed by the Paymaster, contain every entry to be found in that book?

A. They should, and do generally, except the memoranda of the balances.

Q. Whether those books, which are transmitted to the Navy Office by the Paymaster, are previously examined and checked by the Paymaster?

A. I can only say I suppose they are.

Q. Are these so?

A. I cannot speak positively to that.

Q. When you spoke of balances on a former day, was it collected entirely from the book before you, or had you any other means of knowledge of the balances?

A. I spoke from the book before me.

Q. Was it this same book?

A. This book, and a book of a similar nature.

Q. Not a book made by yourself?

A. No.

Q. Not signed by any body?

A. Not signed by any body.

Q. Not examined by any one?

A. That I cannot speak to.

Q. Those were the materials from which you swore to the balances on a former day?

No answer.

By a Peer. Q. Had you any other materials from which you spoke?

A. No.

By Counsel. Q. Was it in your own particular office and department?

A. It is my office to have these books under my custody.

Q. Is the business to which the entries relate, done in your department?

A. They were made in a separate branch of the office.

Q. Not in the Accountant's branch?

A. There was no Accountant's branch at that period.

Q. Were you employed officially in any one of the branches to which the entries relate?

A. I was.

Q. In which?

A. I was employed in one of the branches, but not in making up the certificate.

Q. Did you speak in stating the balances, from books which you were not concerned in making up?

A. I was not concerned in making them up.

Q. Have you any knowledge whatever on the subject of these balances, except what you collect from the books?

A. None.

By the Managers. Q. Whether the book you have in your hand was not one of the public office books during the treasurership of Lord Melville?

A. It is.

Q. Whether you have made out the accounts of Lord Melville's treasurership from that book, and others of the same description?

A. They are made out from this book, and others of a similar description.

The Managers for the Commons submitted that the books in question were admissible.

By a Peer. Q. What is that book?

A. It is called the certificate-book of the Navy Branch.

Q. Who appoints Mr. Slade?

A. The Treasurer of the Navy?

Q. Who appointed Mr. Slade in this instance?

A. I believe he was appointed to the office prior to the treasurership of Lord Melville.

Q. Was he continued by Lord Melville?

A. Certainly.

Q. Does the Paymaster of the Treasurer of the Navy, when he is furnished with a copy of that book which you have in your hand, from time to time sign it, and transmit it to the Navy Board?

A. He does.

Q. Is there in the Navy Office at this time, any such copy, so signed by the Paymaster?

A. I cannot speak certainly, but I believe there is.

Q. Do you mean that the Paymaster signs a copy of that book, or only certificates extracted from that book for his signature?

A. To the best of my knowledge and belief, it is an exact copy, except the memoranda at the foot of each, which regard the balances.

Q. The balances are constituted by casting up the book, are they not?

A. The general balance is struck on the book, and the memoranda divide it into different parts.

Q. Does the Paymaster sign any balance which is copied from that book into the after book sent to him?

A. The general balance he does.

By a Manager. Q. Will your lordships permit him to read for your information, not as evidence, that part of the book which is not copied?

A. I have before me the certificate between the 1st and the 31st of July, 1783, in Lord Melville's first treasurership in the Navy Branch; the balance appears to be 16,734l. 14s. 1d. the memoranda at the foot is "Whereof in Bank 7201l. 7s. 11d. money and premiums 18l. 7s. 6d. in Mr. Slade's hands 5515l. 13s. 1d. Exchequer fees 3999l. 5s. 7d. making together the general balance I have just read.

The witness was asked,

Q. When the Paymaster has transmitted to him a copy of that which you have now been reading, does he subscribe that general balance?

A. He does.

Q. Do you know whether in this instance he did so?

A. I cannot

A. I cannot speak to this particular; it is in the course of the office to do so.

Q. Is that which you have last read, any part of the certificate that is transmitted to the Paymaster for his signature?

A. No.

By a Peer. Q. Is that memorandum any thing more than the result of what you before stated?

A. It is the particular disposition of the general balance.

Q. What were the duties of the office of Mr. Slade?

A. He was a clerk in the Navy Branch.

Q. What are the duties of the clerk in the Navy Branch?

A. They are various.

Q. For what purpose was that account you have in your hands, kept by Mr. Slade?

A. It is the Treasurer's cash account: the account of receipts and payments.

Q. Is that account kept for the purpose of enabling the Paymaster to certify to the other branch?

A. Certainly.

Q. How often are these certificates transmitted from the Treasurer to the Navy Office?

A. For the Navy and Victualling Branches, they are transmitted twice a month, for the Pay Branch once a month.

Q. Is that the book from which extracts are made for the information of the particular departments?

A. This book contains the particulars transmitted to the Navy Board for their information.

Q. And these accounts contain accounts from time to time, being parts only, as they are understood, of that general entire account?

A. The parts of a general account.

Q. Was any other clerk but Mr. Slade employed to make out certificates?

A. The certificates are written by other clerks, besides Mr. Slade, in this book.

By Counsel. Q. Will your lordship permit me to ask a question, whether the particulars, making up the general balances, constitute a part of the account made out to be signed by the Paymaster, and sent to the Navy Board?

A. They do not.

Q. Then these do not form any part of the account sent to the Treasurer and Paymaster?

A. They do not.

Q. The Paymaster's certificate, which is transmitted twice a month, does it not contain all the accounts up to the time when it was sent?

A. It does.

Q. Except the memoranda of the balances?

A. Yes, except the memoranda of the balances, as before stated.

Q From what materials in the office does Mr. Slade make up that book and strike those balances?

A. I apprehend, from materials furnished him by the chief clerk in the office, who pays bills and receives money, and also by the gentleman who attends the Exchequer receipts.

By a Peer. Q. Is there kept in the office any copy of that certificate which is transmitted by the Treasurer to the Navy Office?

A. None other but this book.

Q. If you had occasion to turn to any items in the account, should you

efer to that book which lies before you, as the original, or to those other certificates you have before stated?

A. To this book.

Q. Supposing any accident were to happen to that book now before you, in what manner could the account be supplied?

A. I do not know any other way then by obtaining copies from the account transmitted to the Navy Board, that would be the most simple way; there may be other materials in the office from which an account might be made, but to that I cannot speak positively.

Q. When there is a necessity, from time to time, to make up the Treasurer's account, what materials are to be found in this book for that purpose?

A. The receipts and the general payment.

Q. Are those materials exclusive of the memoranda containing the particulars of the balances?

A. They are, exclusive of the memoranda of the particulars of the balances.

Q. Are the memoranda of those particulars resorted to and collected from the book?

A. Yes, in making up the Treasurer's account.

Q. It has been stated that these certificates are made up from the books; whose business is it to make up those certificates?

A. I do not know that it has been the business of any one gentleman or clerk in the Navy and Pay Branches, but I know, that for these thirty years past it has been the custom in the Victualling Branch for the chief clerk in that branch to make up the certificates.

Q. Is the certificate made up by the same person who keeps the book; if it should happen that in making the transcript which the certificate purports to be of a part of the entry, it should be found there is an error in the book in making the calculation, would that error be copied in the certificate, or the certificate be made out correctly?

A. The copy from the beginning would be examined with it I conceive, and if there was any error it would be corrected.

Q. If an error were discovered in making the transcripts, and that error were not copied in the certificate, but the certificate were made correct, would that correction be made in the book so as to make it tally with the certificate?

A. I apprehend it would.

Q. Whose duty would it be to compare the book for the purpose of that correction being made?

A. I apprehend the gentleman who made out the particular branch, and his principal.

Q. You cannot speak with any certainty whether it is ascertained that in all cases the certificate is an exact transcript of the book itself?

A. It is the course of office that it should be an exact transcript, except the memoranda before mentioned?

Q. If the certificate contained any mistake in making that transcript, might not that mistake be set right by resorting to those books which you call office books?

A. It would.

Q. Whether the Paymaster has not materials of his own, by which he can make out the certificate, and correct this book, if this book is not sufficient materials for him for that purpose?

A. The Paymaster, I conceive, has an account of his own balance; certainly he must have; and his own balance, with those of the sub-accountants, must make a general balance which he signs to.

Q. Are those materials of such a nature, that he might make out the account which he certifies, without having resort to that book?

A. He could not without the assistance of the different pay clerks.

Q. With that assistance could he make out the account which transmits and certifies, without having recourse to that book?

Q. Do you know of any instance of any account transmitted to the Navy Office that does not proceed upon that book now before you for its foundation?

A. I do not.

The counsel for Viscount Melville waved their objection.
The witness was asked,

Managers. Q. Of what branch have you now the certificate book before you?

A. The Navy branch.

Q. What was the Treasurer's balance as it appears on that book, 31st July, 1783?

A. 7,2011 7s. 11d.

Q. Read the entry to which you are referring?

A. It is called "in Bank."

Q. From whence are those memoranda taken?

A. They can be taken no otherwise, than from the information of the different accountants, including the Paymaster.

Q. Is it from verbal or from written information from the sub-accountants and the Paymaster, that those balances are put down?

A. I cannot speak distinctly to that.

Q. Do not you know that each sub-accountant keeps a book containing his receipt and payments?

A. He does keep a book.

Q. Does the Paymaster likewise?

A. I apprehend he does, he must in fact?

Q. Must not each of those subdivisions that constitute these memoranda be entered in the books of the Paymaster and the other sub-accountants?

A. I apprehend they must appear in their separate books.

Q. Are not those the books from whence those separate memoranda are taken?

A. I apprehend they are.

Q. Is it the course to enter all those memoranda in the book?

A. Yes, it has been the custom of the office to enter the memoranda at the foot of each certificate for each branch.

By counsel. Q. Does there appear any date annexed to the balance in the bank?

A. It purports to be the balance in the bank on the 31st July, 1783.

Q. Read the entry itself.

A. Between the 1st and 31st of July, 1783.

Q. Is that entered in the ordinary official course, ending of course with the last date?

A. It is.

By counsel. Q. Whether there is not a posterior date in the same page, the date of September, 1783?

A. There is; I have but this moment observed it, I apprehend that is an error in the date.

 Q. What

Q. What is that posterior date that you apprehend to be an error, and why do you apprehend it to be so?

A. It is the 10th of September, which is certainly subsequent to the 31st of July, on which day the account purports to end 10th of September, 1783, by issued to the paymaster to carry on payments and recals 10,000l.

Q. To whom would that have been issued?

A. The chief clerk for the pay branch would have paid that.

Q. Would it not have appeared from the book of the chief clerk of the pay branch, whether that was accurate or not; must not that have been taken from the book of the chief clerk of the pay branch?

A. No, it is not?

Q. From what is that taken?

A. I cannot speak precisely what kind of memorandum is given to the clerk who makes out this certificate.

Q. Read the next entry.

A. The next is the 22d?

Q. The 22d of what month?

A. As it stands here it appears 22d September, 1783.

Q. What is that entry?

A. By issued to the paymaster to carry on payment and recals, 10,000l.

The whole of the entries in that page of the book were directed to be read; the same were read.

The witness read the balance of the preceding account, dated 31st July, 1783, as follows, 7,201l. 7s. 11d.

* By a Peer. Q. Can you account for the circumstance of the accounts having been kept in this manner in the months of July and August?

A. I cannot account for the entry of the account I have just read, except an error. It is manifest to me that is an error, because I read two sums on the debit side of the treasurer of this account for July, 1783, as money received of the Treasurer of the Navy, 10,000l. each, which answer to the 10,000l. on the other side, dated in September: they should have been, as I conceive, dated exactly on the same day, the month only is altered.

By a Peer. Q. How soon after the period when the account purports to bear date, is it made out? For instance, how soon after the 31st July would that account in the course of office have been made up?

A. In the course of office certainly before there was another certificate day, that is, before the 14th of the following month.

Q. Read the two sums on the credit side which correspond with the two sums on the debtor side?

The witness again read from the book last delivered in the following entries.

Dr.		Cr.	
July, 1783.		*Sept.* 10.	
To received of the Treasurer of the Navy, to carry on recalls in his Treasurership - -	10,000.	By issued to the Paymaster, to carry on payments and recalls - - - -	10000

Managers.

Managers. Q. Is the meaning of the words "in bank" in the hands of the treasurer?

A. It is the mode in this branch of expressing the Treasurer's balance.

Refer to the other book, and state what are the other balances on the other branches.

Q. What was the Treasurer's balance on the 31st July, 1783?

A. 56l.; 172l. 0s. 3½d.; 463l.; 6,571l.; 4,7[illegible]3l. making together 11,926l. 12s. 4d¾. which is the general balance of that branch.

Q. Now refer to the victualling branch?

A. The balance for the victualling branch to the 31st July is not made up.

Q. What book is that you have before you?

A. The certificate book for the victualling branch.

Q. Does the aggregate balance appear by that book?

A. From the 1st July to the 30th of September, 1783. It being an ex-treasurership account, is not made up monthly.

By counsel. Q. You have said the balance for that month is not made up; is the balance made up for the succeeding month?

A. No, not in this book.

Q. Are any balances made up in that book for the victualling branch?

A. None between the 1st of July and the 30th of September.

Q. Should the balances be made up monthly, according to the course of the office?

A. It has not been customary to do so when the Treasurership becomes an Ex-treasurership.

Q. Is there any distinction of that kind in the accounts, as they refer to the victualling branch? They do not appear to be unfinished in the other branches?

A. I do not know the reason why they are not made parallel to each other.

Q. As they are made up in the other two branches, can you state why they are not made up in this particular branch?

A. I cannot state the reason why they are not.

The witness was directed to withdraw.

Mr. George Swaffield was again called in, and examined as follows:

By Mr. Whitbread. Q. Were you chief cashier of the victualling branch of the Navy Pay Office, in the month of July, 1783?

A. I was.

Q. What was the Treasurer's balance in that branch on the 31st of July, 1783?

A. There was no account made up for that month.

Q. Can you, by reference to your journal, ascertain the balance of that day?

A. No.

Q. Have you any book with you, by reference to which, you can ascertain the balance on that day?

A. I have not.

Q. What was the balance the last day of June, 1783?

A. At the end of June, the last balance was in the whole, 20,045l. 8s. 10¾d.

Q. What proportion of that sum was the balance of the Treasurer?

A. 9,351l. 4s. 4d.

Q. Can you, by referring to your journal, and looking at your receipts and payments in July, state what the balance was on the last day of July?

A. I cannot.

Q. Can you, by reference to your journals, state what sum you received in the month of July on account of the Treasurer?

A. On the 11th of July I received 1,400l. and on the 12th of the same month I received of him 5,600l.

Q. If these two sums are deducted, will that make the Treasurer's balance on the 31st of July?

A. It will.

Q. What will that make the Treasurer's balance at that period?

A. It will make the Treasurer's balance on the 31st of July, 2,351l. 4s. 4d.

Cross-examined.

Q. Whether, in making out the balances, there have not frequently been errors, which have been a considerable time existing before they have been detected?

A. Not at this time, that I recollect.

Q. At any other time?

A. Yes; since I was under the necessity of keeping my money at two banks, part in the Bank of England, and part in the bank of Messrs. Coutts and Co. I charged myself on one occasion with 5,000l. which, in fact, I had not received from the Treasurer.

Q. How long have you been in the office?

A. I have been in the office sixty years.

Q. Were you in the office at the time Mr. Grenville was paymaster?

A. I was.

Examined by the Peers.

Q. Do you know of any other error, than that which you pointed out just now?

A. No other than one of the same kind, by having balances at two bankers; I upon another occasion charged myself with 10,000l. more than I received from the Treasurer of the Navy.

Q. Were these errors soon afterwards rectified?

A. I believe in one of them it was near twelve months before I discovered where the error was.

Q. Are both these errors rectified?

A. They are.

Q. Read from the defendant's banking book, denominated "Old Account," the following entry.

A. "The Right Honorable Henry Dundas, bank, 1782, 1783, July 31. By balance to new account, 2,008l. 12s. 3d.

The witness was directed to withdraw.

Mr.

Mr. George Fennell was again called, and examined as follows:

Q. Has the Treasurer debited himself in his public account with either of the sums of 1000l. on the 24th of June, 1783; 5000l. on the 2d of July, 1783; 1,400 on the same date; 6,000 on the 11th of July, and 2,000 on the 31st? Have you examined the official books of the Navy Pay Office to ascertain that fact?

A. I have.

Q. If either of these sums had been received from any public source, would he have so debited himself?

A. He would have debited himself in these books before me.

Cross examined.

Q. Specify in what official books that debit would have appeared?

A. The official books for the navy branch and the victualling branch. There are no receipts and issues out to the pay branch from the Exchequer, or from individuals, as there are in the navy and victualling.

Q. These are all the books in fact?

A. They are all the books, in which such entries would or ought to be made.

The witness was directed to withdraw.

Mr. John Gimmingham was again called in, and was examined as follows:

Q. What is that book you have in your hand?

A. The Treasurer's bank book.

Q. Is it the Old Account or the New Account?

A. The New Account, 1784. The Right Honorable Henry Dundas, bank, 1784.

The following entries were then read by the clerk:

"The Old Account, Right Hon. Henry Dundas, bank, 1784." "13th March, 1784, Right Hon. Henry Dundas, Old Account, 2000l."

Read from a book intituled "New Account, 1784, Right Hon. Henry Dundas, bank, 1784," the following entry. "1784, March 31, Dundas, Old Account, 2000l."

Read from the Old Account, "24th April, 1784, Right Hon. Henry Dundas, New Account, 1000l."

Read from the New Account, "30th April, 1784, the Right Hon. Henry Dundas, 1000l."

Read from the Old Account, "17th June, 1784, to the Right Hon. Henry Dundas. New Account, 1500l."

Read from the New Account, "30th June, 1784, the Right Hon. Henry Dundas, Old Account, 1500l."

The witness was directed to withdraw.

Then

Then Mr. Charles Lemage was called in, and being sworn, was examined as follows:

Q. Are you a clerk in the Bank?
A. Yes.

A book was shewn the witness, and he was asked,

Q. Do you know whether that is a banking book of the Treasurer of the Navy?
A. It is.

Read from a book intituled, "Old Account, the Right Hon. Henry Dundas, bank, 1784," the following entries:
"1785, March 1, Rt. Hon. Henry Dundas, N. A. J. R. 1500l."
Read from New Account, before delivered in:
"1785, April 1st, by Dundas, 1500."

The witness was directed to withdraw.

Mr. Thomas Rippon was called again, and was examined as follows:

Q. In what mode do the Bank have the vouchers written off in the banking book of the people who keep cash with them, with respect to dates?
A. When vouchers are written off, the transaction is dated on the day on which it is done, without regard to the day on which it is paid, that is the uniform practice.
Q. What do the letters N. A. J. R. mean?
A. March 1st. The Right Honorable Henry Dundas; N. A. which are the initials for New Account; J. R. are initials of the person so writing in the credit of 1,500l.

The witness was directed to withdraw.

Mr. George Fennel was again called in, and examined as follows.

Q. What was the balance of the Treasurer of the Navy upon his Old Account, on the 31st March, 1785?
A. It is not stated in the certificate book for March, 1785?
Q. Why is it not?
A. I do not know; there appears to be no variation in the Treasurer's balance from the 31st of December, 1784, till the 30th of June, 1786.
Q. What was the Treasurer's balance on the 30th of December, 1784?
A. The Treasurer's balance on the 31st of December was 701l. 7s. 11d.
Q. Did that continue unvaried?
A. It continued unvaried till the 31st of March, 1786.
Q. What branch is that?
A. The Navy branch?
Q. Turn to the next, the Pay branch?
A. The Treasurer's balance, Pay branch, on the 31st of March, 1785, was 1,056l.

Q. What

Q. What was it in the Victualling?

A. In the Victualling branch, the Treasurer's balance on the 31st of March, 1785, was 851l. 4. 4d.

Read from the Old Account, 1784, the following entry:

"1785, March 31st, by balance to New Account, 1,008l. 12s. 3d."

Read from the New Account, 1784, before delivered in, the following entry:

1784, August 30th, Swaffield, 2000l."

The witness was directed to withdraw.

Mr. George Swaffield was again called, and examined as follows:

Q. Did you receive a draft for 2,000l. upon the Bank, or the produce of such a draft, in the month of August, 1784?

By a Peer. Q. What papers are those you are referring to?

A. They are copies of accounts with which I have furnished the managers.

The witness was directed to refer to the original.

By counsel. Q. Is that in your own hand writing?

A. All this is in my own hand writing.

Q. Look at the 24th August, 1784?

A. I received no money of the Treasurer of the Navy on that day.

Cross examined.

Q. In August, 1784, by whom was the detail of the business of the Treasurer's office managed?

A. Mr. Douglas; he was then the Treasurer's Paymaster.

Q. Was the detail of business managed by Mr. Douglas?

A. So far as respected the Victualling, it was certainly managed by me.

Q. Which department is this particular payment in?

A. In the Victualling branch.

Q. Who would have been to issue the money to you in that branch?

A. Mr. Douglas.

Q. Did Mr. Douglas draw all the drafts upon that subject?

A. Mr. Douglas at times was very much afflicted with the gout, and had not the power of drawing.

Q. Who drew when he could not draw?

A. I did.

By Mr. Whitbread. Q. Who signed the draft!

A. I did.

Q. Did you, in the month of August, 1784, or at any other time, draw a draft payable to yourself, which you did not give credit for to the Treasurer of the Navy?

A. I did not.

The witness was directed to withdraw.

Then

Then Mr. George Fennel was again called in, and examined as follows:

Q. State the Treasurer's balance on the new account on the 31st of March, 1785, the second Treasurership?

A. It was 22,192l. 17s. 7d. in the pay branch; 5,972l. 16s. 4d. the treasurer's victualling branch; on the 31st of March, 1785, 15,352l. 10s. 9d. on the navy branch.

Read from the New Account, 1784, before delivered in, the following entry:

"1785, April 1st, by balance to New Account, 35,518l. 6s. 8d."

Read from the same book the following entry:

"1785, May 31st, Swaffield, 2000l."

The Witness was directed to withdraw.

Then Mr. John Swaffield was again called in, and examined as follows:

Q. Look at your account with the Treasurer of the Navy, and state whether you received a draft or the produce of a draft the 25th of May, 1785, for 2000l.

A. On that day I received 5000l.

Q. Did you also receive a draft for 2000l. on that day?

A. I did not.

Read from the new account, 1784, before delivered in, the following entry.

"May 31st, 1785, Swaffield, 5000l."

Cross-examined.

Q. Whether, independent of the entries contained in the books you produce, you are able, from your memory, to give an account of all the transactions of that period?

A. I am not.

Q. Have you, since the date just referred to, May, 1785, settled your accounts at different times with the Paymaster of the Navy, on the account of the Treasurer, without being called at any time to render an account of these two sums?

A. I have not.

Q. Were are the accounts you have since settled with the Treasurer of the Navy?

A. In writing in my own hand in this book.

Q. Do you mean to state that you have ever settled any account yourself with the noble defendant?

A. I do not recollect that I have.

Q. Having stated that you sometimes drew drafts when Mr. Douglas was not in a condition to draw for himself, whether you on that day, or the day before, paid the sum of 2000l.?

A. I did not.

From a Peer. Q. You state that occasionally you drew drafts in your own name, though in fact, you were only authorised by Mr. Douglas so to do, whether at those times when you drew the drafts, the drafts were entered in the books as paid to the individual in whose favor you drew the drafts, or whether they were entered as paid to you?

A. I do not remember that I ever drew a draft of that kind in my own name.

Q. As you did not settle your accounts personally with Mr. Dundas, with whom did you settle them?

A. I settled it in my own books, and of course knew the balance at the end of every month.

The witness was directed to withdraw.

Mr. Thomas Oliver was again called in, and produced a ledger of Messrs. Drummonds, and was examined as follows:

Q. Read an entry of the 25th of May, 1785.

A. The title of the account is the Right Honorable Henry Dundas, May 25th, 1785, received of Andrew Douglas 2000l.

By counsel. Q. Has the witness examined this period with any book?

A. Yes, I have.

The witness was ordered to withdraw.

Mr. George Fennel was again called in, and examined as follows.

Q. What were the Treasurer's balances on the 31st of May, 1785, in the navy branch?

A. The balance then was 54,773l. 11s. 11d.; for the pay branch, 31st May, 1785, 19,832l. 16s. 4d.; for the victualling branch, on the 31st May, 1785, 13,352l. 10s. 9d.

Q. State the official balance the 31st July, 1785.

A. For the navy branch 3,602l. 14s. 9d.; for the pay branch, the 31st July, 1785, 6,200l.

Q. For the victualling branch?

A. The 31st July, 1785, 13,752l. 10s. 9d.

The witness was desired to withdraw.

Mr. John Gimmingham was again called in, and examined as follows:

Q. Do you know whether these are the banking books of the Treasurer of the Navy?

A. They are both the Treasurer's books.

The witness was directed to withdraw.

Q. Read from a book entitled New Account, Right Honorable Henry Dundas, Bank, 1785, the following entry.

A. 1785, July 30th, by balance to new account, 13,026l. 10s. 8d.

Q. Read from another book intitled New Account, Right Honorable Henry Dundas with the Bank, by act of Parliament, dated July 1st, 1785, the following entry.

A. July 30th, by balance to new account, 28,528l. 15s.

Mr. John Davies was called in, and being sworn, was examined as follows:

Q. Did you pay or transfer the sum of 1000l. to the account of Lord Melville, the Treasurer of the Navy, at the Bank, in the month of October, 1785?

A. I made a draft for 1000l. payable to the Right Honorable Henry Dundas; it was for his salary as Treasurer of the Navy, for the preceding quarter.

Q. What situation did you hold in the Navy Pay-office at that time?

A. At that time I was assistant to the then Cashier of the Navy.

Q. What was his name?

A. John Slade: the public cash was deposited in our joint names, and therefore I drew the draft myself.

Q. Did you make any payment to the amount of 1000l.?

A. I did on the 6th of October, 1785.

Q. On what account did you make that payment?

A. I made it on account of the Right Honorable Henry Dundas's salary for the preceding quarter.

Q. To whom, or to what account did you make that payment?

A. I will look at another book, and inform you.

Q. By a Peer. Is that book in your hand-writing?

A. It is all in my own hand-writing; the draft was drawn payable to Mr. Dundas, but it was given to Mr. Douglas.

The witness was directed to withdraw.

Read from a book intituled, New Account, Right Honorable Henry Dundas, 1785, before delivered in, the following entry:

"1785, October 6th, Slade and Davies, 1000l."

Mr. Fennel was called in again, and examined as follows:

Q. State the Treasurer's balance on the 31st October, 1785.

A. The Treasurer's balance in the navy branch on the 31st of October, 1785, was 95,733l. 10s.; for the pay branch on the 31st October, 1785, 3,213l. 16s. 11d.; for the victualling branch on the 31st October, 1785, 19,712l. 10s. 9d.

Q. Read from the New Account, Right Honorable Henry Dundas, Bank, 1785, before delivered in, the following entry:

A. "1785, 31st October, by balance to New Account, 9,026l. 10s. 8d."

Q. Read from the book intitled the Right Honorable Henry Dundas with the Bank, by act of Parliament, dated July the 1st, 1785, before delivered in the following entry:

A. "1785, October 31st, by balance to New Account, 128,033l. 7s.

The

The witness was directed to withdraw.

Mr. Archibald Douglas was called in again, and examined as follows:

Q. When did your father die?

A. Some day in December, 1785, to the best of my recollection, but I cannot ascertain the day.

The witness was desired to withdraw.

Mr. George Fennel was again called in, and stated from the certificate books before delivered in, that the Treasurer's balance for the navy branch, on the 30th of November, 1785, was 5,984l. 2s. 1d.; for the pay branch, on the 30th of November, 1785, was 2,513l. 16s. 11d.; for the victualling branch, on the 30th of November, 1785, the balance was 21,712l. 10s. 9d.

Q. Read from the book, intitled Right Honorable Henry Dundas with the Bank, by act of Parliament, July 1st, 1785, the following entry:

A. "1785, November 30th, by balance to New Account, 65,783l. 19s. 1d.

Q. Read from the banking-book New Account, 1785, the following entry:

A. "1785, October 31st, To balance from old account, agreed, John Betteworth, 9,026l. 10s. 8d.

The witness was directed to withdraw.

Then Mr. Osborn Standert was again called in, and examined as follows.

Q. You are clerk in the Navy Office?

A. Yes.

Q. When the Treasurer of the Navy is to make a transfer from one account to the other, whether he does not do that by direction of the Navy Board?

A. Yes.

Q. Is he allowed so to do without directions for that purpose being given?

A. No.

Q. Were any directions given for transfers by the Navy Board, to the Treasurer of the Navy for 2000l. on the 13th of March, 1784, or for 1000l. on the 24th of April, 1784, or for 1,500l. on the 17th of June, 1784, or for 1,500l. on the 1st March, 1785?

A. I cannot tell from memory.

Q. Have you taken any, and what means, to inform yourself upon that subject, or whether such orders were or not given?

A. I have referred to those bills, by which those tranfers were made.

Q. Do you mean by which all transfers were made during the Treasurership?

A. Yes.

Q. Do you find any authority whatever for the Treasurer having made the transfers that were before repeated to you?

A. The bills only are the authority for such transfers.

Q. Examine those bills, and see if you can find any authority for a transfer of the sum of 2000l. on the 15th March, 1784; the second is 10,000l. the third is 20,000l. the fourth is 1000l. the fifth is 5000l. the sixth is 5000l. the seventh is 5000l. the eighth is 5000l. the ninth is 5000l. the tenth is 10,000l. the eleventh is 5000l. and the twelfth is 5000l.

Q. Are there any more bills of the same nature, authorising transfers during that period?

A. Not from one treasurership to the other.

Cross-examined.

Q. Explain what you mean by transfers made by bills?

A. Sums that have been received by the Treasurer, for the time being, and paid over to the Ex-Treasurer to carry on the service during his treasurership.

Q. Then you are to be understood, that the account of the Ex-Treasurer, and the Treasurer in the office, are kept distinct?

A. They are so.

Q. Do you mean, speaking of the transfers from one account to the other, that that was directed by the Navy Board?

A. Yes, that it was directed by the Navy Board.

Q. Each head of service is also kept distinct by the Ex Treasurer, or by the Treasurer in office?

A. Exactly so.

Q. Are any directions given with respect to the removal of any money from the Bank for any purpose. Do the Board ever give any directions upon that subject?

A. Never.

Q. The transfer from one place to another place, is left to the discretion of the Treasurer, and is not under the direction of the Board?

A. Undoubtedly not.

Q. Was there any transfer from one account to the other, at the period respecting which you have been interrogated in April, March, and June, 1784?

A. I find one transfer of 10,000l. was made in March, 1784, from the new account to the old account.

Q. Is that a transfer that is directed by the board?

A. Yes, that 10,000l. was expressly received by the Treasurer in his second treasurership, purposely to pay over to the Treasurer in his first treasurership.

Q. Was that under the regular authority of the Navy Board?

A. Yes

Q. Is there any authorised transfer in the same month from one account to the other?

A. I do not know of any.

Q. The total amount of the Ex-Treasurer and the Treasurer in office, is never varied at all without authority, is not that so?

A. Yes, that is perfectly clear.

Q. Whether you know any alterations in the month of March, and the other two months from the old account, to the new account from the Ex-Treasurer to the new Treasurer?

Q. Do you belong to the Navy Pay Office at all?

A. I do not.

Q. Do

Q. Do you belong to the Navy Office?

A. Yes.

Q. Is it your particular office to controul the Treasurer's accounts?

A. It is.

Q. Does it lie within your own knowledge, if there is any transfer from one account to the other in consequence of your department?

A. It would appear in the account of each, the sum transferred, and the sum received, in the other account?

Q. Would it come within your official knowledge if such a transfer had at any time been made?

A. It would.

Q. Did any such transfer take place on the 13th of March, 1784, from one account to the other?

A. The day on which the actual transfer was made, I cannot speak to, but the document by which the tranfer was made, passed the office on the 8th of March, 1784.

Q. Do you know of any other transfer from one account to the other in the course of the same month?

A. I do not.

Q. If there had been any transfer from one account to the other, should you have known it?

A. In the regular course of business I should.

Q. Are you in possession of any documents to know whether, in point of fact, there appears to have been any variation of the accounts in that month? Any transfer from one account to the other?

A. The express sum, which I have mentioned before, of 10,000l. is the only article that I know of, that was transferred in that way, and the only transfer that I know has been made.

Q. It is wished to put the same question, with respect to the other two months, April and June, 1784, and the month of March, 1785?

A. I have no document of April or June, 1784, that shews any transfer all.

Q. Have you any relative to March, 1785?

A. I have a document of the 11th of March, 1785, 5000l.

Q. Do you know, in point of fact, whether any transfer in either of those months, from one acount to the other, did take place?

A. I cannot tell by my memory.

Q. Can you, by referring to any books, ascertain that fact?

A. Referring to the Treasurer's receipts and payments, which were signed by Mr. Douglas, would shew it; the certificate-books.

Q. Specify the Books in which that is to be found.

A. It would have appeared in the books Mr. Fennel lately had copies of. Those books are in the hands of the solicitor for the managers.

Q. Supposing a transfer from the Bank Account of the ex-treasurer to the Bank account of the new Treasurer, or vice versâ, would that be a subject upon which any direction would be required from the Navy Board?

A. Certainly not.

By Managers. Q. Does the witness mean to represent that no transfer was made at the periods that have been mentioned from the second treasurership to the first, without anthority from the Navy Board?

A. I only speak from the authorities which lie before me.

Q. May there not for any thing you know, have been a transfer made from

from the second treasurership to the first, without authority from the Navy Board?

A. I think if they had been, and these transfers had been regular, I must have known it;

Q. You are asked concerning irregular and unauthorised transfers?

A. Those I cannot speak to.

Q. When you are speaking of transfers, are you to be understood to be speaking of transfers of the Bank account of the Treasurer at the Bank, to the Bank account of Ex-Treasurer; or the total account of one Treasurer to the total account of the other?

A, We know of no transaction at the Bank.

Examined by the Peers.

Q. When you speak of a transfer from the new to the old account, do you mean by that the Bank carrying part of the credit, which stood to the new account, to the credit of the old account?

A. When money is required in the old treasurership, to carry on the service, an application is made to the Navy Board for a sum so to do; the Navy Board write to the Treasurer of the Navy to solicit a certain sum for that purpose; he takes that solicitation to the Treasury, and upon that document the Treasury issue the precise sum to the Treasurer for such purpose. When that is done, he certifies to the Navy Board that such a sum is received for such a purpose; upon which, those bills are made out in the name of the Ex-Treasurer, and assigned in the name of the Treasurer for the sum; therefore, it is only a sum passing through the medium of the present Treasurer to the late treasurership, to carry on the service of that late treasurership.

Q. Then if the Treasurer for the time being, should draw upon the Bank, by his Paymaster, for the sum of 1000l. and that should come into the hands of his Paymaster, and should afterwards by that Paymaster, or any other, be paid to the old account, whatever that is in effect, would you either call it a transfer, or an unauthorised transfer, whatever that be in effect?

A. We should call nothing a transfer but what appears upon the face of the Treasurer's account.

Q. Though the thing be the same in effect, you give a different name to it?

No answer.

Adjourned.

SIXTH DAY.

MONDAY, MAY 5TH.

MR. GILES. "The balance, my lords, has been stated to be 10,600l. 9000l. on the one, and 1600l. on the other account. To proceed to the evidence, as to these particulars, I shall call Mr. Fennel."

Mr. Fennel called and examined.

By the Managers. Q. What was the Treasurer's balance on the old account of the Ex-treasurership, in September, 1785?

A. For the Navy Branch 701l. 7s. 11d. for the Victualling Branch 851l. 4s. 4d. For the Pay Branch 4566l.

A book being handed to the witness, the following entry was read from it.

"Sept. 30, 1785, to balance from old account, 4508l. 12s. 3d."

Mr. Whitbread. "We now, my lords, shall call Mr. Thomas Oliver, who will state what was the balance of Mr. Dundas with Messrs. Drummond's on the the 25th of May, 1785."

By Managers. Q. Refer to the ledger you produced before their lordships, and state what was the balance of Mr. Dundas's account on the 25th of May, 1785, in that book?

A. The balance on that day appears to be 2547l. 13s. 10d. against Lord Melville.

Cross-examined.

By Counsel. Q. Turn again to that entry of the 25th of May, 1785. You represented what was the balance of the account current of Lord Melville on that day. Does there appear upon the book any balance struck that day, or is it a balance that you struck now upon the account current?

A. I make it by calculation by casting up the account.

Q. Do you make it from the calculations of an open account current?

A. Yes.

By Managers. Q. Turn to the entry of the 4th of March, 1784, of money paid on Lord Melville's account, and by whom?

A. March, 4, 1784, by cash received of Andrew Douglas, 600l.

Q. Refer for the same purpose to an entry of the 27th of May?

A. May 27, received of ditto, 500l.

Q. Refer to the 28th of the same month?

A. May 28, ditto, 500l.

Q. Refer to the 14th of August?

A. August 14th of ditto, 1000l.

Q. Does

Q. Does "ditto" in all these entries, refer to Andrew Douglas, before named?

A. It does.

Q. Turn to the 8th of January, 1785?

A. January 8, 1785, by cash received of Andrew Douglas, 1000l.

Q. Turn to the 17th of March in the same year?

A. March 17th of ditto (viz. Andrew Douglas) 1000l.

Q. Turn to the 19th of May the same year?

A. May the 19th of ditto, 1000l.

Q. What does ditto mean to express in that entry?

A. Andrew Douglas.

Q. The entry on the 25th of May, which is the succeeding and last entry that has been already read. Read it again?

A. May 25th, of Andrew Douglas, 2000l.

Q. Read the two next entries in the same page, and in the same account?

A. October 4th, Mansfield on Coutts, per Newbigging, 2000l. Dec. 29, Simpson on the Bank, per Davidson, 3600l.

Q. Turn to the entry on the 7th of April, 1783.

A. April 7, 1783, received 500l.

By Counsel. Q. It does not specify from whom received?

A. It does not.

By Managers. Q. Turn to the 30th of June, 1783?

A. June 30. 1783, of Andrew Douglas, 175l. 16s. 4d.

Q. Turn to the 30th of December, of the same year?

A. December 30, received 100l.

By a Peer. Q. Is that the whole entry?

A. It is.

Examined by the Peers.

Q. With regard to the entry of the 7th of April, 1783, and 30th of December, 1785, which are marked in the first instance, simply, "received 500l." and in the other entry, "received 100l." from whom were they received?

A. It is to be presumed immediately from Lord Melville, or from a messenger from him, that is the usual way of making entries.

Q. Does your presumption of that fact appear any where upon the face of the book?

A. It does not appear; it only states, received.

Q. Is there any entry, with the mark of the letter P, in any of those entries?

A. It would not appear here; that would appear in the waste book.

The witness having withdrawn,

Mr. Archibald Douglas was called into the box, and was examined as follows, by the Managers:

Q. You have stated that your father, Andrew Douglas, died in December, 1785, were you present at that time.

A. I was.

Q. How soon previous to your father's death did you see him?

A. I reached London from Scotland on the Thursday, late in the day, and my father died on the Sunday following.

Q. Were you executor to your father?

A. I was

A. I was acting executor to my father.

Q. Were any claims made upon you as executor for any balances due on the Navy Pay account;

A. Yes there were.

Q. What were those claims, and made by whom, on such account?

A. I cannot say expressly, that the claims were made upon me.

Q. Had you any interview with Lord Melville subsequent to your father's death?

A. Yes, I had.

Q. Can you remember what passed at that interview, between Lord Melville and yourself?

A. At the distance of twenty or twenty-two years, I cannot be very positive, but to the best of my recollection knowing that there was a balance due in the Treasurership of Lord Melville, for Exchequer fees, I thought it my duty to wait upon Lord Melville, to ask him to whom I was to pay such sum, or sums, as were due in his Treasurership.

Q. What answer did Lord Melville give you to that enquiry?

A. To the best of my recollection, Lord Melville said, he would let me know, or I should soon know to whom I was to pay it.

Q. To whom in fact were these sums so due, transferred, and does that appear from any writing?

A. I do not remember that it does. I will state from memory to whom I think I paid them.

Q. Was any account in writing made by you to whom that balance was paid?

A. The mode by which I paid the balance, as well as I recollect, was by my accompanying Mr. Trotter, who, I believe, was appointed to succeed my late father, to the house of Messrs. Coutts the banker, and the mode of paying Mr. Trotter, as far as I recollect, was by transferring some large sums from my credit to that of Mr. Trotter, in the books of Messrs. Coutts.

A paper was shewn to the witness, aand he was asked as follows:

Q. Look at this receipt, upon what occasion was that given you?

A. It appears to be signed Henry Dundas. It was given to me as executor of Andrew Douglas, for the sum of 4,475l. 4s. 9d.

Q. Were any further claims made upon you, and by whom, as acting executor of your father?

A. I do not know of any further claims being made upon me. There was a balance due in the Treasurership of the late Lord Mendip.

Mr. Whitbread. "I mean to confine my question to Lord Melville's Treasurership."

Q. Was any claim made upon you as the executor of your father, on account of Lord Melville's Treasurership?

A. None as far as I recollect.

Q. Or ever since?

A. Nor ever since.

Mr. Whitbread. "The Commons feel that the evidence they have brought has supported the 1st and 10th articles, and I again offer myself as a witness to your Lordships, and I swear that on the 11th of June, 1805, I heard Lord Melville declare, with reference to a different sum of 10,000l. from that respecting which I deposed on the other day; that he did, at a subsequent time to the time at which he possessed himself of the first 10,000l. possess himself of another sum, nearly to a similar amount, and I understood in substance, that Lord Melville said, that he would not reveal the application of that money, any more than the first 10,000l.; and, from the same motives, this was said in the presence of hundreds of persons, and I propose on a future day, to call another witness to the testimony which I have given.

Cross-examination.

Q. It is presumed the honorable Manager, upon this subject any more than the other, did not at the time take any note or minute in writing of what passed?

A. I certainly at that time took a note of the substance of all that Lord Melville said, but not the exact words.

Q. The speech of Lord Melville in the house took up a considerable time?

A. Yes, upwards of two hours I dare say.

Q. Could you undertake to repeat, by heart, any passages that made favorably for Lord Melville, as well as those that you have now given to the Court?

A. I have repeated, by heart, certain words which I have sworn that Lord Melville spoke; any other particular words of his speech I am not quite sure that I could repeat; I am now only swearing to the substance of what Lord Melville said.

Q. Can you repeat the substance of any other part of Lord Melville's speech, which was favourable to Lord Melville?

A. If the learned counsel will point my attention to any particular passage of that speech, I will tell him whether I can repeat the substance of it, or not.

Q. Did the noble Lord in the course of his speech with respect to the sum in question, negative the appropriation of that sum the same as of the other, to his own private use?

A. I understood him to do it exactly in that way, as with regard to the other sum of 10,000l.

Q. Do you recollect, that the noble Lord at the same time in the most positive and explicit manner, did deprecate any appropriation of these sums to his own private use, or Mr. Trotter's?

A. I do not think that he did, in precise and explicit terms, negative that fact.

Q. Can you, by referring to the notes you took at that time, be able to speak with more positiveness and precision upon that part of the subject?

A. I do not think I could speak with more positiveness, and certainty?

Q. Was

Q. Was no note taken upon that subject?

A. Yes, but when expressions are equivocal, it is difficult by any note, exactly to give the precise meaning the words are meant to convey.

Q. What was that equivocal expression, that was used upon that occasion?

A. I do not recollect the precise words, but without recollecting the precise words, one may have a recollection that there was an equivocal sense pervading several sentences?

Q. Endeavor to recollect the substance of what was said in that part of the noble Lord's speech that made that impression?

A. The impression intended to be conveyed by that part of the noble Lord's speech, to which I presume the learned counsel means to refer, the impression intended to have been conveyed, I apprehend to have been, that he had not directed Mr. Trotter to make use of any public money for his private advantage. With regard to the permission which he had given to Mr. Trotter, I think the words were pretty precise, that he had given Mr. Trotter such permission.

Q. Permission to do what?

A. To place the public money at other places than the Bank, and also to make use of a part of it for his own advantage.

Q. It is begged to repeat the question, whether the noble Lord, did not in the most explicit and positive terms deny, that he had either given any permission, or had any knowledge of the public money being laid out to pay any purposes of private emolument or profit, either for himself or Mr. Trotter?

A. I wish the learned counsel to interpret what he means by "laid out." I understood the noble Lord to say, or at least implied from it, that he had permitted Mr. Trotter to place the public money at other places besides the Bank, for his own private purposes; and also to make use of a part of it for his own advantage.

Q. Whether the honorable manager does not distinctly recollect, that the averment of the noble defendant upon that subject, of placing it, was, that he had given no other permission, but to remove the money from the Bank, to a private bank for the convenience of appropriating it to the public service?

A. Certainly, one of the reasons given by the noble Lord, was, that he allowed the money to be removed to a private banker's, for official convenience, but it did not appear to me that that was the only reason.

Q. Then having said one of the reasons assigned by the noble Lord, was, that it might be there for the public convenience, did he give any other reason besides?

A. Yes, I understood for the emolument of Mr. Trotter, and the noble Lord described the manner in which he thought that emolument had accrued, namely, by interest paid by Mr. Coutts to Mr. Trotter, for lodging that money.

Q. Be so good as to refresh your memory upon the subject, and say whether the sole reason given by the noble defendant, was not, that the sole object for removing it from the Bank was for public convenience, but at the same time, he did suspect or believe, that an advantage had accrued to Mr. Trotter from that act, which was not done for his advantage, but for public convenience?

A. That was not the way in which I understood it altogether.

Q. Whether you have refreshed your memory since you heard the speech by a reference to what was stated on Saturday as intended to be read in evidence, the substance of the speech delivered?

A. I have not since looked at the pamphlet in question, I have been otherwise most laboriously occupied.

Q. Whether the noble defendant did not in express terms say, that he did solemnly assert before that house, that he never knew, that Mr. Trotter had drawn any money, for the purposes of private emolument in manifest evasion of the act?

A. I am speaking to the speech, and not to the pamphlet; the pamphlet, which I have read more than once, does not in every part of it, exactly correspond with the speech, as delivered by the noble defendant in the House of Commons to the best of my knowledge and belief. Whether those precise words were uttered in the House of Commons, it is impossible for me to say; but whether they were or not, the context of all he said, was to make the impression on my mind which I have had the honor of stating to the court.

Q. It is begged to have a precise answer, whether those words, or to that effect and substance, were used by the noble defendant. I will repeat them again, "I never knew that Mr. Trotter had drawn any money for private emolument, in manifest evasion of the act?

A. I can give no other answer, than I have heretofore done, and I hope that is perfectly satisfactory to the court: that I am not speaking to the words of that pamphlet, but to the words of the speech without recollecting precise parts of it.

Q. The word 'pamphlet' has not been made use of, but it is asked whether in substance, the noble defendant did not imply to the effect I am stating?

A. I do not recollect the precise words, nor do I think that the very substance of those words was uttered in any precise form by the noble Lord.

Q. Whether you mean not only to negative the precise expression that has been stated, but to negative also the substance?

A. I do not mean to negative the substance altogether, of Lord Melville's having criticised upon what the words "manifest evasion" meant; the substance of the speech was, what I have given to your Lordships, the words themselves I do not recollect.

Q. I am not answered yet; I wished to know, whether in words or substance, and also the effect of what was stated just now, was or was not, made use of by the noble Lord?

A. Not to that precise effect, to an effect very nearly similar.

Q. State what was the averment upon that subject, as nearly as you can recollect?

A. The averment upon that subject I took to be, to import that he had not allowed Mr. Trotter to do that to the extent to which it had been done.

Q. Is it to be understood that your recollection is, that he allowed it to any extent?

A. Undoubtedly.

Q. Do you mean, that he allowed it in any other respect than as a benefit might arise to him, for depositing it for the convenience of the public service at another bank?

A. The noble Lord had first of all contended, that the act was not evaded, and therefore there comes a question, what was the evasion of the

the act; not a manifest evasion of the act, according to the construction of the noble Lord; but according to the construction I put upon it, it was a manifest evasion of the act.

Q. Whether the noble Lord admitted, that he had ever permitted Mr. Trotter to derive any private benefit from the public money, except the benefit arising from a deposit made at a private banker's for the purpose of official convenience?

A. I understood Lord Melville to say, for Mr. Trotter's convenience also.

Q. Whether upon recollecting yourself upon this subject, you mean to state, that the noble defendant admitted that he knew or permitted any emolument to be derived by Mr. Trotter from the public money, save and except what resulted from its deposit at a private banker's for official convenience?

A. The noble defendant stated that he had allowed the money to be placed at a private banker's for official convenience; and when there, he had allowed or permitted, or not prevented Mr. Trotter from making a private emolument from it; and that emolument arising from the interest he was to make of it for Mr. Coutts.

Q. Whether the noble defendant admitted his consent or knowledge of any other benefit to Mr. Trotter from it?

A. The noble Lord never said he had restricted Mr. Trotter from making advantage in any way to the best of my recollection and belief; and he then stated that he made it in that way.

Q. The question is not whether he restricted him, but whether he said he knew of his having any other advantage, excepting the advantage before stated?

A. He did not say he even knew it, but only supposed it; he did not admit that he knew of any other.

Q. Whether he did not also state in the same speech that he never knew that Mr. Trotter had invested any money in Exchequer or Navy Bills?

A. I believe he said so.

Q. That he never knew that he had put any money upon security of stock?

A. I believe he said so.

Q. That he never knew he had employed any money in discount of private Bills?

A. I believe he said so.

Q. That he never knew he had employed any money in the purchase of Bank or India stock?

A. I believe he said so.

Q. Whether you recollect, at the same time, the noble defendant declaring, that he had not the smallest knowledge or belief, that Mr. Trotter ever did lay out for his use, or any benefit in any such modes, any sum of public money whatsoever?

A. Please to read the passage over again, and tell me to whom that "*his*" refers, whether to Mr. Trotter or Lord Melville?

Q. The question was repeated?

A. I do not think so, precisely as it is put in those words.

Q. What was the averment upon that subject?

A. Pretty nearly amounting to precision, but not altogether; the impression made upon my mind was, that the denial was not positive and precise.

Q. Can

Q. Can you, with any distinction, recollect the substance of the expressions used?

A. I cannot recollect further than I have stated; I cannot discriminate more nicely; I wish I could for the benefit of the learned counsel, as it would save him trouble.

Q. Is there any part of the expression which you think was not used? I will read it again.

A. It is not the expression, it is the general impression of the same words in another order; the insertion or the omission of one word will make all the difference to the construction of the passage.

Q. Have you the notes with you that you took at the time?

A. I have not; they were notes I then took being then in the House of Commons, and endeavouring to prepare myself to answer the speech of the noble Lord; they were notes of that sort that if I were to refer to them now I do not know that I should be able to understand them, and whether they are in existence or not I cannot say.

Q. The passage which is favorable to Lord Melville you have no distinct recollection of the terms made use of?

A. The only precise words I have any distinct recollection of I have sworn to; I have no recollection of those words stated by the learned counsel to the court, whether favorable or unfavorable.

Examined by the Peers.

Lord Stanhope. Q. When Lord Melville stated that he would not reveal the application of a sum of 10,000l. or thereabouts, did he state to the house his reason for declining so to reveal it?

A. In mentioning the first 10,000l. or whether he coupled the two together, I am not quite sure; but the words he used and the motive he said that prevented him from revealing the application of that money, were, motives of public duty, of private honor, and personal convenience; I understood him to apply those words to both sums.

Mr. Whitbread. "I shall now produce the appointment of Mr. Trotter as Paymaster, and the power of attorney under which he acted."

Mr. Barlow read the letter of attorney from Lord Melville to Mr. Trotter, dated 10th January, 1786.

"Know all men, by these presents, that I the Right Honourable Henry Dundas, Treasurer of his Majesty's Navy, as well within Great Britain as without, (the kingdom of Ireland excepted) have nominated, constituted, and appointed Alexander Trotter, Esq. my Paymaster, hereby giving and granting to him full power and authority to draw on the Governor and Company of the Bank of England for and upon my account, as Treasurer of his Majesty's Navy, all and every sum and sums of money that now are or shall hereafter be wanted for the public services under my care and payment, he being particularly careful to specify in each and every draft, the service for which the money is drawn.

"In witness whereof I have hereunto set my hand and seal, this

16th day of January, 1786, in the twenty-sixth year of his present Majesty's reign.

" HENRY DUNDAS. (L. S.)

" Signed, sealed, and delivered, being first duly stamped in the presence of

" WILLIAM BELL."

Mr. Barlow then read the power of attorney.

" Right Honourable Henry Dundas to Alexander Trotter.

" Know all men, by these presents, that I the Right Honourable " Henry Dundas, Treasurer of his Majesty's Navy, have made, " ordained, constituted, and appointed, and by these presents do " make, ordain, constitute, and appoint Alexander Trotter, of Graf- " ton Street, in the parish of St. Pancras, in the county of Mid- " dlesex, Esquire, my true and lawful attorney, for me in my " name, and on my behalf, to transact, do, perform, and execute, " all such matters and things, as either now do or hereafter shall " in any manner whatsoever appertain to the duties of my office " or place of Treasurer of his Majesty's Navy, and especially for " me in my Name, and to my use, to apply for and receive of and " from the officers of the receipt of his Majesty's Exchequer, for " the time being, and of, and from, the Governor and Company " of the Bank of England, all and every such sum and sums of " money as shall from time to time be wanting, and necessary for " the due execution of my said office; and to give and sign re- " ceipts for the same. I the said Henry Dundas hereby ratifying " and confirming, and agreeing to ratify and confirm all whatso- " ever my said attorney shall lawfully do, or cause to be done, in " and about the premises by virtue of these presents.

" In witness whereof I the said Henry Dundas have hereunto " set my hand and seal this 19th day of July, in the year of our " Lord one thousand seven hundred and eighty six.

" HENRY DUNDAS.

" Sealed and delivered, being first duly " stamped in presence of

" WILLIAM CABELL."

Mr. Whitbread. " The next document I shall produce is a mutual and general release between the noble defendant and Mr. Trotter."

" The mutual general release between the Right Honourable Lord Melville and Alexander Trotter, Esquire, of Dreghorn, dated 18th and 23d February, 1803, was then read by Mr. Barlow.

" To all and sundry to whom these presents shall come, we " the Right Honourable Henry Baron Dunira Lord Viscount " Melville, some time Treasurer of his Majesty's Navy, and " Alexander

" Alexander Trotter, Esquire, of Dreghorn, Paymaster of his Ma-
" jesty's Navy, send greeting: whereas for several years past, there
" have been sundry accounts, reckonings, and money transactions
" depending between us, the accounts of which have lately been
" examined, adjusted, and agreed upon between us, and upon such
" examination, settlement, and adjustment, there remained a ba-
" lance due from the said Alexander Trotter to the aforesaid Lord
" Viscount Melville of one thousand four hundred and eighty
" pounds eleven shillings and one penny sterling money, with
" which final examination, settlement, and adjustment both parties
" declare themselves perfectly satisfied; and do hereby approve
" of, and ratify the same; and they have either mutually delivered
" up to each other, or resolved and agreed mutually to cancel and
" destroy all the vouchers, or other memorandums and writings,
" that at any time heretofore may have existed, passed, or been
" interchanged between them relative to the said accounts, and
" the different items and articles of which the said accounts are
" composed or consist, and they have further resolved and agreed
" mutually, to release and discharge each other up to the day of
" the date of these presents for now and ever; therefore, the
" aforesaid Right Honourable Henry Lord Viscount Melville, for
" and in consideration of what is above mentioned, and also for
" and in consideration of the sum of five shillings of lawful money
" of Great Britain, to him in hand, well and truly paid by the
" aforesaid Alexander Trotter, the receipt whereof he doth hereby
" acknowledge hath under the reservation and saving, herein after
" mentioned, remised, released, and for ever discharged; and doth
" by these presents, for himself, his heirs, executors, administra-
" tors, and successors whatsoever, remise, release, and for ever
" discharge the aforesaid Alexander Trotter, his heirs, executors,
" administrators, and successors whatsoever, of and from all and
" all manner of action and actions, cause and causes of action and
" actions, suits, debts, dues, sum and sums of money accounts,
" reckonings, bonds, bills, notes, specialties, covenants, contracts,
" controversies, agreements, promises, variances, damages, judg-
" ments, extents, executions, clauses, and demands whatsoever in
" law and equity which against the said Alexander Trotter he the
" said Lord Viscount Melville ever had, now has, or which he,
" his heirs, executors, administrators, or successors hereafter can,
" shall, or may have, for, upon, or by reason of any matter, cause,
" or thing whatsoever, from the beginning of the world, to the
" day of the date of these presents. Saving, nevertheless, and re-
" serving from, the above mentioned release and discharge, and
" the effect thereof, the aforesaid sum of one thousand four hun-
" dred and eighty pounds, eleven shillings and one penny, which the
" aforesaid Alexander Trotter doth hereby acknowledge to be due,
" and owing from him to the said Lord Viscount Melville, as the
" balance on the aforesaid accounts, so settled and adjusted be-

" tween

" tween the said Lord Viscount Melville, and him the said Alex-
" ander Trotter, as is above mentioned; and he the aforesaid
" Alexander Trotter for, and in consequence of what is above
" mentioned, and also for, and in consideration of the sum of five
" shillings of lawful money of Great Britain, to him in hand, well
" and truly paid by the aforesaid Henry Lord Viscount Melville,
" the receipt whereof he doth hereby acknowledge, hath remised,
" released, and for ever discharged, and by these presents doth for
" himself, his heirs, executors, and administrators, and successors,
" remise, release, and for ever discharge the aforesaid Lord Vis-
" count Melville, his heirs, executors, administrators, and succes-
" sors whatsoever, of, and from, all and all manner of action and
" actions, cause and causes of action and actions, suits, debts, dues,
" sum and sums of money, accounts, reckonings, bonds, bills,
" notes, specialties, covenants, contracts, controversies, agree-
" ments, promises, variances, damages, judgments, extents, execu-
" tions, claims, and demands whatsoever, in law and equity, which
" against the said Lord Viscount Melville, he the said Alexander
" Trotter ever had, now has, or which he, his heirs, executors, ad-
" ministrators, or successors hereafter can, shall, or may have for,
" upon, or by reason of any matter, cause, or thing whatsoever
" from the beginning of the world, to the day of the date of these
" presents. And the said Alexander Trotter doth hereby testify,
" acknowledge, and declare, that, notwithstanding any thing
" herein-before-contained, he doth still remain indebted, and owing
" to the aforesaid Henry Lord Viscount Melville in the sum of
" one thousand four hundred and eighty pounds eleven shillings
" and one penny, lawful money of Great Britain, being the ba-
" lance of the accounts finally settled and adjusted between him
" and the said Lord Viscount Melville, as herein-before-mentioned;
" and both the parties aforesaid consent to the registration hereof,
" in the books of council and session in Scotland, therein to re-
" main for preservation, or if necessary, that all due and ordinary
" execution may be directed hereon, and for that effect, they con-
" stitute their procurators.

" In witness whereof these presents, written on this and the
" two preceeding pages of paper, duly stamped by Thomas Dorge,
" clerk to Messrs. Spottiswoodes and Robertson, of Sackville-
" Street, in the liberty of Westminster, are subscribed by the said
" parties; and to this last page they have hereunto respectively set
" and affixed their seals as follows; viz. by the Right Honourable
" Lord Viscount Melville, at Melville Castle, in the county of
" Mid Lothian, on the eighteenth day of February, in the year of
" our Lord one thousand eight hundred and three, before these
" witnesses, Thomas Pocknell and Thomas Matthews, both his
" servants, and by the aforesaid Alexander Trotter, at London, on
" the twenty third day of February, in the year of our Lord one
" thousand eight hundred and three, before the witnesses Thomas
" Wilson of the Navy Pay-office, London, Esquire, and John Spot-
" tiswoode, junior, of Sackville-Street, aforesaid, the place, date,

" witnesses' names, and designation, to the execution hereof by " the said Alexander Trotter, being inserted by the said John Spot- " tiswoode, junior.

" Signed, sealed, and delivered by the said Henry Lord Viscount Melville, (being first duly stamped) in the presence of us witnesses hereto, } " MELVILLE. (L. S.)

" THOMAS POCKNELL,
" THOMAS MATTHEWS.

" Signed, sealed, and delivered by the said Alexander Trotter (being) first duly stamped, in presence of us witnesses hereto, } " ALEXANDER TROTTER. (L. S.)

" THOMAS WILSON,
" JOHN SPOTTISWOODE, JUNIOR."

Mr. Whitbread said he next wished to call the attention of the house to the notice which had been served upon the noble defendant, for the production of all papers relative to his connection with Mr. Trotter, either as his private agent, or public officer.

The counsel for Viscount Melville said, they admitted it.

Alexander Trotter, Esquire, was called in, and being sworn, was examined as follows:

Q. Were you ever in the Navy Pay Office?

A. I was.

Q. When did you first enter the Navy Pay Office?

A. I believe in the latter end of the year 1776.

Q. What was your salary when you were first appointed?

A. I went into the Pay Office a junior clerk; I believe upon a salary of 50l. a year.

Q. How long did you continue in the Navy Pay Office?

A. I continued, I believe, till the year 1784 as a clerk.

Q. Was your salary increased from your first entering the office up to the day of your quitting the Navy Pay Office?

A. I apprehend it may have been, but not materially; I do not recollect.

Q. Was it doubled?

A. I do not think it was.

Q. How long did you remain in the Navy Pay Office?

A. My recollection does not serve me to state that precisely, but I believe nearly a twelvemonth.

Q. What office did you hold when you were replaced in the Navy Office?

A. I was appointed Paymaster under the Treasurer of the Navy?

Q. Who appointed you Paymaster?

A. My Lord Melville.

Q. Upon whose recommendation, if you know it?

A. I am at a loss to ascertain that precisely; but my relation, Mr. Coutts, had applied to Mr. Pitt, and I believe Mr. Pitt had made interest with my Lord Melville to appoint me to that situation; I do not know whether that was the only interest employed or not.

Q. When you were appointed Paymaster, what was your salary?

A. 500l. a year, with some deductions of taxes.

Q. As Paymaster of the Navy, did you receive the balance of public money which was due from your predecessor?

A. The Bank books were delivered to me. I believe my Lord Melville and I were told that the public balance was at that time in the Bank, excepting the sums that were in the hands of the sub-accountants, and a sum which his Lordship mentioned to me.

Q Do you recollect what that sum was, which Lord Melville mentioned to you?

A. I had stated it upon the best of my recollection, upon a former occasion, to be 10,000l.; but have been induced, from many things I have seen since, to believe it was 10,600l.; 1,600 a balance due from his first Treasurership, and 9,000l. a balance due on the first part of the second Treasurership.

Q. Did you examine the public cash at the time you became Paymaster?

A. No farther than by observing by the books that the balance was in the Bank.

Q. Where was that 10,000l. which you have thus divided into two sums?

A. My Lord Melville told me that he should account for it.

Q. Did he tell you in whose possession it was?

A. He did not.

Q. Whether you received the balance of Exchequer fees?

A. I did.

Q. What is the distinction between Exchequer money and the public money deposited at the Bank?

A. Exchequer fee money is imprested into the hands of the Treasurer of the Navy, who allows the Paymaster to have entirely the management of it, for the purpose of paying fees at the Exchequer, and some other contingencies.

Q. Is the Exchequer fee money imprested to the Treasurer of the Navy in the same manner as the other public money?

A. It is the only instance in which it differs.

Q. In what manner does it differ?

A. The Treasurer, or rather the Paymaster, having the sole management of that business, applies to the Treasury for 3,000l. at a time, as he finds his funds are nearly exhausted or reduced under the sum of 3,000l.

Q. Does that application to the Treasury originate with the Treasurer himself?

A. It is put in execution by the Paymaster; it may perhaps originate with the Paymaster, because he signs all documents for the Treasurer of the Navy.

Q. Does the Paymaster transact every part of the duty of the Treasurer by virtue of the power of attorney made to him?

A. All the public duties of the office, as far as I recollect, except that of appointing the clerks.

Q. Does the Treasurer of the Navy perform any public duties of the office, or interfere in drafts for cash after the appointment of his Paymaster.

A. I do not recollect any instance of his having drawn drafts during the time I acted as his Paymaster.

Q. Where was the public money, exclusive of the Exchequer fee money, when you took upon you that appointment?

A. It was in the hands of Mr. Archibald Douglas, Mr. Douglas's son.

Q. It is meant exclusive of the Exchequer fee money, where was the public money?

A. Part of it was in the Bank of England, and part in the hands of the sub-accountants of the Treasurer of the Navy.

Q. Do you mean exclusive always of the 10,600, which Lord Melville had told you he should account for?

A. I mean so; having mentioned that sum, I did not think it necessary to repeat it.

Q. Did the public money continue in the Bank of England? I mean to put this question of Exchequer fee money. Did all the public money continue in the Bank of England all the time you were Paymaster, excepting the money that was in the hands of sub-accountants?

A. Of the money which I had taken under my management there were many exceptions.

Q. What do you mean by the money which you had taken under your management, and where was that money?

A. I mean, in consequence of my having made an application to Lord Melville for liberty to draw part of those balances from the Bank, and to place them in the hands of a private banker, for the convenience of official transactions.

Q. Who was that private banker?

A. Coutts and Co. in the Strand.

Q. Did you draw all your drafts from the Bank in the form prescribed by the act of parliament?

A. To the best of my knowledge and remembrance I did.

Q. Whether you meant to pay them immediately to the sub-accountants, or to place them in the house of Messrs. Coutts, was the same form always used in both those cases; did you always draw according to the terms of the act?

A. I always drew to the best of my remembrance and belief in the same form.

Q. Did you ever draw a draft upon the Bank of England, specifying Pay branch, and deposit the money arising from the draft in the house of Coutts?

A. Certainly.

Q. And the same in the Navy branch?

A. Undoubtedly.

Q. And the same in the Victualling branch?

A. I did.

Q. Had you at any time any of the money so drawn under the terms of the act, which you took under your management, in the hands of other persons, besides those of Messrs. Coutts?

A. I had.

Q. Had you ever with Mr. Sprott?

A. I had.

Q. With

Q. With Mr. Montague Lind?

A. Mr. Lind, as a friend, used to assist me in negociating business, but I do not recollect having lent him any money.

Q. Had you ever any in the hands of any house of credit and repute at Edinburgh?

A. I had.

Q. Had you ever government security, such as Navy, Victualling, and Transport bills, purchased with such money?

A. I had.

Q. And Exchequer bills?

A. Yes, I had.

Q. Did you ever discount the bills of any private individuals with that money?

A. I do not recollect having transacted such business myself, but my friend, Mr. Lind, and others whom I have employed, undoubtedly have.

Q. Did you employ persons to discount the bills of private individuals of good repute with that money through the medium of friends or agents?.

A. I have.

Q. Were you ever absent from the Navy Pay Office with permission of your principal?

A. I have been.

Q. To whom, during those absences, did you confide the management of public money, both at Messrs. Coutts, in the hands you have stated, at the Bank?

A. To Mr. Thomas Wilson.

Q. In what manner did Mr. Thomas Wilson draw, or in what way was he authorised to draw on your account?

A. As I did not wish to propose to Lord Melville to authorize any other person than myself to draw from the Bank, I found it necessary, in case of illness, or occasional absence from the office, when sudden demands were made upon the accountants for payment of money, to leave in Mr. Wilson's hands drafts signed by myself.

Q. Were those drafts left in blank with regard to the sum?

A. That was necessary.

Q. Were those checks so given to Mr. Wilson, both upon the house of Messrs. Coutts, and also upon the Bank?

A. No, only upon the bank.

Q. Was the power of drawing unlimited?

A. It was; I did not mean to deny that Mr. Wilson had also liberty to draw upon Messrs. Coutts, but it was not under the same form.

Q. Had Mr. Wilson also power to draw on Messrs. Coutts?

A. He had.

Q. In what form?

A. I do not recollect that I gave him any written authority, though I suppose I must; as Coutts's house is so correct, I must have given them a written authority to answer demands he might make on my account.

Q. Had Messrs. Coutts's unlimited authority to answer the drafts of Mr. Wilson on your account?

A. They had.

Q. Had Mr. Wilson instruction from you during your absence, to employ

ploy public money for your advantage in the same way in which you employed it while you were present?

A. He had my verbal instructions.

Q. Did he act upon those instructions?

A. He did.

Q. Did you actually make profit of the public money so placed in various hands, in the manner you have now stated?

A. I did, I never meant to conceal it.

Q. Through whose hands, or whom did you first employ, to make profit of the public money for you?

A. I do not distinctly recollect.

Q. Was Mr. Jellicoe a person so employed by you?

A. He was.

Q. Did you ever act as private agent to Lord Melville?

A. I have always endeavored to be of what service I could to his Lordship in the transaction of his private business, but without any formal appointment as an agent.

Q. When did the first transaction of agency from you on the part of Lord Melville, though not by any appointment of his Lordship, take place?

A. It is impossible for me to recollect, as I do not remember the instance.

Q. Did it take place before your appointment of Paymaster of the Navy?

A. It did not.

Q. When you were first in the Navy Pay Office in the character of a clerk, at a salary of 50l. a year, were you in any way known to Lord Melville in that office?

A. I had the honor of being introduced to his lordship?

Q. Do you recollect in what year, and about what time, you were so introduced to his Lordship?

A. I think about the year 1782.

Q. What was your salary in the office at that time?

A. I have already stated it to be not more than 100l. I do not know whether it had varied from the first salary I had when I went into the office.

Q. Did you after you became Paymaster receive the salary of Lord Melville as Treasurer of the Navy?

A. I did by virtue of a general power of attorney.

Q. Did you receive Lord Melville's salary as his private agent, when Lord Melville held other appointments under government?

A. I received no other regular salary of Lord Melville's into my hands.

Q. Did you receive his salary as President of the Board of Controul, for instance?

A. I did not.

Q. As Keeper of the Privy Seal in Scotland?

A. I did not.

Q. As Keeper of the Signet?

A. I did not.

Q. Did you receive the income of Lord Melville's private estates in Scotland?

A. I did

A. I did not receive them regularly; remittances have been made to me from Scotland, but I did not know from what sources they came.

Q. Were you agent to receive regularly the income from Lord Melville's estates in Scotland?

A. I was not.

Q. Did you regularly receive the income of any estates which Lord Melville might have in England?

A. I do not recollect that I did.

Q. Did you receive the dividends from any public stock belonging to Lord Melville?

A. I did receive such dividends.

Q. Did you keep any account between yourself and Lord Melville as debtor and creditor?

A. I did.

Q. Can you now produce such account?

A. I cannot, I have no account in my possession that I can command, excepting one that is in the possession of the managers of the impeachment.

Q. In what way, in what form, upon what papers, or in what book was that account kept?

A. It was kept in a small account book of my own.

Q. Was a copy or statement of that account regularly furnished by you to Lord Melville?

A. It was frequently, but not regularly.

Q. When so furnished, did Lord Melville sign that account, and you also, and were duplicates of that account made?

A. There were duplicates made, he did sign them generally, I believe always, when I presented them.

Q. Were those duplicates so signed by you and your principal, one part of them left in the hands of Lord Melville?

A. They were.

Q. Did you carry to the credit of that account all sums of money which you received on account of Lord Melville for salary, and all occasional remittances from Scotland?

A. I carried them to the credit of Lord Melville in his accounts with me.

Q. Was interest on either side charged on that account?

A. There was not.

Q. Did you advance to the debit of that account, any sum of money to Lord Melville?

A. I have advanced sums of money to Lord Melville, and placed them to the debit of that account.

Q. Did you in 1786, or thereabouts, advance any specific sums to Lord Melville, that went to the debit of that account?

A. As nearly as I recollect, I did advance specific sums to Lord Melville, and placed them to the debit of that account.

Q. Was any security given for those sums?

A. His Lordship granted me a bond and security for 4,000l. which I advanced him in or about that year.

Q. From what sum was that money, or those sums composing the 4000l. advanced?

A. I was enabled to advance that sum of money to his Lordship from

rom the fund which I have already explained, having had the controul of that which was put into my hands for the purpose of paying Exchequer fees; and as I had money upon two different treasurerships which would not probably be called for, but had always been allowed to remain in the Paymaster's hands for the trouble of making up the Ex-treasurer's accounts, I knew that money would not be called for till I should leave the office, or the accounts should be audited; and from that account I advanced his Lordship 4000l.

Q. Did that sum of 4000l. so advanced by you, bear interest?

A. I charged no interest to his Lordship for that sum.

Q. Did the bond bear upon the face of it, that it was with interest or without?

A. It did not bear upon the face, that no interest was to be paid, but no interest was expressed to be paid.

Q. Was interest expressed to be paid upon the face of the bond?

A. It was not.

Q. Why did you advance a sum of money to Lord Melville without interest?

A. I did not feel myself entitled to charge his Lordship interest for money which had been put into my hands under the situation I have described.

Q. Did you describe to Lord Melville the reason why you did not charge interest?

A. I did not, nor did I press it upon his lordship's attention so much as to know, whether he ever knew that it did bear interest or not.

Q. Was that 4,000l. so stated to have been without interest and upon bond, entered in the account which you have stated?

A. I believe it to have been the first article in that account, but I can only speak from recollection, and it being at a very distant period, I beg to say, that it is only from my recollection that I do state it.

Q. To the best of your recollection and belief, was that the first item in the account?

A. I believe it was.

Q. What was the title of the account?

A. It was entitled an Account Current.

Q. In the account current so kept between you and Lord Melville, were other advances made on the account of Lord Melville?

A. As I was in the habit of receiving all his dividends, and his salary as Treasurer of the Navy, of course I debited his Lordship with payments I made of those sums.

Q. Did you also credit Lord Melville for all these dividends as received upon those sums?

A. I did.

Q. Did you direct a purchase to be made on account of Lord Melville of 2,000l. India stock, in or about the year 1792?

A. My attention has been called to that circumstance from seeing the entry in the Tenth Report, and I have no reason to doubt that I did.

Q. To the best of your knowledge, did you or did you not give such directions?

A. I really have no doubt that I did give such directions, although I have no actual remembrance of it; I can venture to say that I did give such directions.

Q. Do

Q. Do you know, or have you any knowledge, from what fund the money was drawn, with which that 2000l. India Stock was purchased?

A. I have already said that I had drawn money from the Bank, and put it into the hands of Coutts & Co.; these sums having created credit to me at Coutts's house, I then drew upon Coutts for money to pay for that stock.

Q. Was that 2000l. stock bought on account of and for the benefit of Lord Melville?

A. I believe it was.

Q. Were the dividends of that stock carried to the credit of his account current with you?

A. I have no doubt that they were. I am obliged to speak under that reserve from having no documents of my own to refer to, but, from looking at the account at Coutts's house, I am satisfied that the dividends of that stock were carried to the credit of Lord Melville's account.

Q. Did you direct to be purchased a certain quantity of stock commonly called the Loyalty Loan, in or about the year 1797?

A. I did not to the best of my recollection.

Q. Was a certain quantity of the Loyalty Loan subscribed to, for the benefit of or on account of Lord Melville, by you, or under your authority, or paid for with money coming from out of the funds you have described before?

A. There was no such stock subscribed for by me, or purchased by me; I believe the payments were made by Mr. Coutts's house, as far as I can understand and recollect, and they were afterwards paid by me to Mr. Coutts's house.

Q. Was that Loyalty Loan, the price of which was so originally paid by Mr. Coutts, and then repaid by you to Coutts, for the benefit or on account of Lord Melville?

A. It was repaid by me to Mr. Coutts for Lord Melville.

Q. Were the dividends upon that Loyalty Loan carried to the credit of Lord Melville in the account current between his Lordship and you?

A. They were.

Q. What was the quantity of that stock so purchased for Lord Melville?

A. I understood, from the first question upon the subject, that it was 10,000l. then alluded to, it must therefore be 10,000l.

Q. Was Lord Melville debited in the account current between his Lordship and you for that sum of 10,000l?

A. I believe he was.

Q. From what sources did you derive that sum of 10,000l. to supply Messrs. Coutts for the purchase of that Loyalty Loan?

A. I cannot state the sources distinctly and separately, as they were upon different payments, unless I had documents before me which I have not.

Q. Were those payments, in fact, paid from the public money, which you had in the hands of Messrs. Coutts?

Mr. Plomer. "The witness ought to speak from his own knowledge."

Mr. Whitbread. "The learned counsel is not to direct the way in which the witness should answer. I desire he may withdraw."

The witness retired.

After some observations, Mr. Whitbread waved the question.

Mr. Alexander Trotter was again called, and the examination was continued.

Q. From what fund or funds did you derive those various payments which constituted the 10,000l. repaid to Messrs. Coutts, for the purchase of that Loyalty Loan?

A. Some of the payments I drew from the Bank and put into Messrs. Coutts's hands, others I drew from my private account at Mr. Coutts's, and paid them into the account of Lord Melville.

Q. Did that private account from which you gave some of these drafts, consist of public money, and a part of it of private money?

A. It consisted of both.

Q. Did you purchase or direct to be purchased a certain sum of 7000l. three per cent. reduced annuities, for or on account of Lord Melville?

A. I directed stock to that amount to be purchased, I believe.

Q. Were the dividends of that stock carried to the credit of Lord Melville in the account current between Lord Melville and you?

A. They were.

Q. Was any interest charged by you upon any of the sums heretofore specified, 2000l. India Stock, 10,000l. Loyalty Loan, and 7000l. Three per cent. reduced?

A. I have already mentioned that I placed these sums into my account current with Lord Melville, and that I never charged Lord Melville interest upon that account, nor did I charge myself interest when the balance of that account happened to be in his Lordship's favour.

Q. Did you direct payments to be made to private individuals on account of Lord Melville?

A. I have frequently.

Q. Did you direct a certain sum of money to be paid on account of Sir William Forbes and company in Edinburgh?

A. I believe I did from the documents that I have seen.

Q. Have you any doubt of that fact?

A. I have none, but at the same time I have no recollection of it.

Mr. Plomer objected, and observed that the witness ought to speak from his own knowledge.

Mr. Whitbread. "The learned counsel is not to direct the way in which the witness should answer."

Mr. Plomer. "I wish to know from whence the witness derives his recollection of such transactions, in order that we may be enabled to possess your Lordships of the whole, and not merely a part of them."

Mr. Whitbread. "I am convinced the learned counsel does not mean to interrupt for the sake of interruption. The witness distinctly said he had no doubt."

Mr. Plomer. "I desire to know if he speaks from the tenth report, which is not a fit source of his recollection."

Mr.

Mr. Alexander Trotter was again called in, and a letter being shewn him, was examined as follows:

Q. Is that letter now in your hand, of your hand writing?

A. This letter is of my hand writing.

Q. Is the whole your own hand writing?

A. It is.

Q. Read that, in order to refresh your memory; read first aloud to the court the date of it.

A. The date is the 28th July, 1787.

The witness was ordered to read the whole of the letter himself, so as to enable him as far as it might to answer the questions that might be proposed to him.

Q. Having now read that letter, does it enable you to speak from your memory, so refreshed, whether you did pay in a sum of money into the house of Sir William Forbes and company, at Edinburgh?

A. I am satisfied that I gave such directions, though I do not remember the circumstance.

Q. From that memorandum are you satisfied that you gave such directions?

A. Perfectly so.

Q. To what amount?

A. Two thousand pounds.

Q. Was that sum of 2000l. carried to the debit of Lord Melville in the account current, and when?

A. It was carried to the debit of Lord Melville's account with me; but as his Lordship had more than one account, I do not recollect which account it was carried to.

Q. Was it carried to the debit of some account between Lord Melville and you?

A. Certainly.

Q. Was any interest charged upon that 2000l. in that account, whatever it might have been?

A. No.

Q. Do you recollect, from having looked at that document in your own hand writing, and made at the time, any advance directed by you to be made to the account of Lord Melville, to the house of Mansfield, Ramsay, and Co. in Edinburgh?

A. The same letter specifies the sum of 3374l. to have been paid by my direction to Messrs. Mansfield, Ramsay, and Co. on Lord Melville's account.

Q. Was any security given to you for either of these sums from Lord Melville?

A. None that I recollect; but having no recollection of the transaction at all, I can recollect no collateral circumstance attending it.

Q. Was the last sum you have mentioned carried to the debit of Lord Melville in any account between his Lordship and you?

A. Certainly.

" What was the amount of that sum so paid by you to Mansfield, Ramsay, and Co.?

A. 3374l.

Q. Was any interest charged upon that sum between Lord Melville and you?

A. I believe none to have been charged.

Q. Was the balance of the account current between you and Lord Melville more generally on one side or the other?

A. It was.

Q. On which side?

A. Lord Melville was generally indebted to me.

Q. To what amount, upon an average in that account current?

A. I am perfectly unable to state that circumstance.

Q. Can you recollect whereabouts it might be?

A. I cannot unless any particular time was specified; and then I believe I could do it.

Q. When was that account current brought to a settlement?

A. Upon the general settlement which we had with his Lordship at the time he left the Navy Pay Office.

Q. When was that?

A. I think upon the 31st of May 1800.

Q. Was a transcript of that account, or the account itself, presented to Lord Melville at that time?

A. I made out a general statement of his Lordship's business, as far as I was connected with him, and that account was particularly specified as well as others.

Q. At that time in whose favour was the balance?

A. I presume your Lordships mean the general statement, including all his accounts.

Q. The question was to the account current only; but postponing to a future opportunity, do you recollect another advance in the year 1789, about the month of July, to Sir William Forbes and Co.?

A. I have no recollection of it.

Q. Have you any recollection of the sum of 3000l. advanced about the 17th of the same month to Mansfield, Ramsay, and Co. on account of Lord Melville?

A. I have no recollection of that circumstance, I have seen sums stated in the tenth report, but I have no other means of recollecting it.

A paper was then shewn to the witness, and he was asked,

Q. Look at that paper, is that your hand writing?

A. It is.

Q. Read that, and see whether you refresh your memory by it; it is a memorandum dated the 5th of January 1790. The transaction took place in 1789: can you, now having refreshed your memory by that document in your hand, state whether you did advance, on account of Lord Melville, to Sir William Forbes and Co. 1000l. in the month of July, 1789?

A. I have no recollection of that particular transaction, and I hope it will not appear extraordinary to you, when it is considered the multiplicity of the transactions that went through my hands during the time I acted in that public capacity, and which appears in the tenth report.

Q. But are you able to speak to the fact by referring to the paper you hold in your hand?

A. I have no doubt about the fact by referring, from its being a signed

account between my brother at Edinburgh and myself, and its being stated to be transmitted to the house at Edinburgh through my brother.

Q. Have you any doubt as to the other sum advanced to Mansfield, Ramsay, and Co.?

Mr. Plomer. "I really must interfere." (The witness having withdrawn he proceeded.) "The witness has been shewn papers and documents, and from these he says he recollects the circumstance. He may say he has no doubt from the full credit he gives to the word of another, but this is not the evidence your Lordships will receive."

Mr. Adam stated the objection also on similar grounds, when the Managers waved the question.

Mr. Alexander Trotter was again called in, and examined as follows:

Q. Whether there was any other account besides the account current kept between you and Lord Melville?

A. There was.

Q. Was that account also kept in a book?

A. It was written in the same book.

Q. What was the title of that account?

A. It was entitled "Chest account."

Q. Do you recollect whether the sum of 10,600l. which it was stated by Lord Melville that he would account for when you first became Paymaster of the Navy, was carried into the account?

A. I do recollect that it was stated in that account.

Q. Did it form the first item of the account?

A. It did.

Q. Were there other sums advanced on account of Lord Melville, entered in this chest account?

A. There were.

Q. Was the loyalty loan, to the amount of 10,000l. which you stated to be advanced to Lord Melville for the purchase of that stock, and carried to the account current, ever transferred to this chest account?

A. It was.

Q. To whom did you consider Lord Melville to be debtor on the chest account?

A. I considered Lord Melville to be indebted to government for the sums I advanced upon the chest account.

Q. Did Lord Melville know that you so considered it?

A. I never had any specific conversation with his Lordship upon it, so as to enable me to say positively that he did; but the accounts were sealed, and duplicates delivered to his Lordship.

Q. What was your reason for transferring the loyalty loan money from the account current to the chest account?

A. It was an anxiety, an attention to my own interest. Lord Melville was indebted to me as a private individual only, upon the account current, and I considered him indebted, as I said before, to government for the balance upon the chest account.

Did

Q. Did you state to Lord Melville you wished, or intended, to transfer this loyalty loan money from the account current to the chest account?

A. I do not recollect that I positively stated it to his Lordship; but I delivered accounts which bore it upon the face of them.

Q. Were those accounts, upon the face of which this transfer was borne, delivered to Lord Melville, and signed by him, the same as the other accounts?

A. They were.

Q. Were the duplicates so signed one part taken by Lord Melville and the other part by you?

A. They were.

Q. Did you charge any interest to Lord Melville upon the chest account when the balance appeared to be against Lord Melville?

A. I did not.

Q. On which side did the balance on the chest account usually stand?

A. Lord Melville generally stood debtor upon that account.

Q. Did Lord Melville approve of the transfer of the loyalty loan to the chest account?

A. He neither approved nor disapproved of it. He took the accounts without any consideration.

Q. Did Lord Melville in fact know at the time the chest account was delivered to him, that he was indebted to the public upon that account in the sum of 10,000l.?

A. I presented his accounts to his Lordship; but as we had no conversation upon them, I am altogether at a loss to answer that question.

Q. Did he know of any distinction between the two accounts, respecting the situation of the one account and the other account?

A. I have no reason to doubt it.

Q. Did Lord Melville then know that upon one account he was indebted immediately to government, and on the other that he was debtor to you?

A. I believe he did.

Q. When did this chest account terminate?

A. At the general settlement which took place when his Lordship left the office.

Q. Did you present to Lord Melville a general statement of this chest account, as well as of the account current?

A. I did.

Q. Did Lord Melville sign or acknowledge the account?

A. I believe he did.

Q. Did Lord Melville at that time discharge these two accounts?

A. He did to the best of my recollection.

Q. Do you recollect what was the sum due to you upon these two accounts?

A. I have no recollection of the precise specific amount.

Q. To the best of your recollection whereabouts was the amount of these two sums?

A. I should think somewhere about 50,000l.

Q. Did you lay before Lord Melville at that time the differences between the office cash and the cash at the Bank?

A. I do not recollect that I did.

Did

Q. Did you state that in consequence of Lord Melville's intention of quitting the Navy Pay-office, there would be a necessity for his providing a sum of money?

A. I did.

Q. For what purpose was it necessary that that sum of money should be provided?

A. To make a repayment of the money which his Lordship had from the public balances.

Q. Did that repayment so to be made by his Lordship, consist of the two sums so taken together the account current and the chest account?

A. I have explained that I applied to his Lordship for a general settlement at that time, and finding that his Lordship pointed out assets sufficient to discharge both, I incorporated the two accounts together, and his Lordship paid me the balance of both.

Q. To what account was that balance so paid to you placed?

A. To discharge the balance upon the chest account and upon my account current with his Lordship.

Q. Where did you pay those balances as soon as you received them?

A. I do not know that they all went through the same channel.

Q. Where did they centre ultimately?

A. They must have centred ultimately in the Bank; because I had a larger sum at that time from the Bank upon my own account.

Q. Did this sum which my Lord Melville so paid you, go to make good the deficiencies at the Bank?

A. I cannot state from my recollection whether the whole went or not.

Q. Were your differences as Paymaster at the Bank made good in part by these payments so received from Lord Melville?

A. As money cannot be identified, I am unable to answer that literally, because it may first have gone into Coutts's house, and I may have drawn a larger sum from Coutts's house which may have made up my balances.

Q. Did the money so paid by Lord Melville go into Coutt's, or other hands for the purpose of alternately making good these differences at the Bank, or a part of them?

A. I presume that they must alternately have been applied to that purpose, as I had a much larger sum to pay at the Bank than that upon my own account.

Q. Did you consider that money, before it was paid by Lord Melville, as a part of the difference owing to the public?

A. I have stated that a part of the balance that was due upon the chest account, I looked upon as due to the public, the other as a balance due to myself; and whether I paid that money afterwards into the Bank in whole or not upon my own account, I do not know.

Q. Did you consider that your own difference to the public was increased by as much as Lord Melville was debtor to you on account current?

A. I did, as far as I can understand the question.

Q. If, for instance, exclusive of the account current, your difference consists of 20,000l. and the account current consists of 25,000l. was the difference increased 45,000l. by the payment of Lord Melville to you?

A. I do not understand the question.

Q. Was your difference, your debt to the public, swelled by the debt owed you on the account current of Lord Melville?

A. If I comprehend the question, it was certainly not necessarily.

Q. Was it in fact so increased on account of the debt Lord Melville owed to you?

A. I do not know whether it was.

Q. If you had had any balance due to you from Lord Melville on the account current on the 31st of May, 1800, would you have had so great a difference at the Bank as then existed?

A. I might have chosen to take the balance which Lord Melville owed to me in another channel, in which case it would have made no difference in the cash in the Bank; and as the fact did not exist, I cannot say what I should have done in such cases.

Q. If Lord Melville had not paid you the sum due on the private account, to enable you to pay that sum into the Bank, must you not have been under the necessity of providing that sum of money elsewhere?

A. Certainly.

Q. Did Lord Melville understand then that the discharge of these two accounts was to enable you to make good your differences at the Bank.

A. Certainly not. Lord Melville understood that so much of it as was due upon the chest account, I believe he understood that was to make good his Lordship's difference at the Bank, and the other was to be in repayment of a sum of money which he owed me upon my account current.

Q. Did you give directions in or about the year 1789 or 1790, for the purchase of another sum of East India Stock, for the benefit of Lord Melville?

A. I gave directions in the year 1789, for the purchase of a sum of East India Stock for Lord Melville's benefit.

Q. Are you able from your memory to state what passed between Lord Melville and yourself upon that subject?

A. I will state the transaction as far as my memory will carry me. It was in consequence of a conversation I had with his Lordship, in which he stated his opinion the value of East India Stock, from the probable rise that would ultimately take place in it; and I observed to his Lordship that if he was impressed with so good an opinion of that stock, that I thought in consideration of his own interest, he ought to invest a sum of money in it. I had mentioned to his Lordship that there were considerable balances lying at all times in my hands that were not called for, and in all probability would not be called for, from circumstances which perhaps I need not relate at this time. But it was money lying unclaimed in my hands, which it would not be necessary to advance to the public until they were claimed, and there was no prospect of that claim taking place soon; and I advised his lordship to give me leave to lay out so much of that money as would buy about thirteen or fourteen thousand pounds of East India Stock; but this his Lordship refused in the most pointed and decided manner, insomuch that I was afraid I had incurred his Lordship's displeasure by proposing it. But it came into my mind at the same moment that it would be possible to borrow a sum of money upon the security of that stock, and I proposed to his Lordship that I should endeavour to do so, and that I should expend that money in the purchase of East India Stock. To this his Lordship readily assented. I mentioned that I then lived with a relation of my own, who was a man of considerable importance in the city, and that he would be enabled to raise this sum of money for me. In short, I made it an easy matter to his Lordship. But when I applied to Mr. Lind, the gentleman to whom I alluded, I found that I was mistaken, and that it was not an easy matter to raise money upon that security: but I was unwilling to disappoint his Lordship in what

I had

I had so sanguinely told him I could effect, and I never acquainted his Lordship with the difficulty that had arisen, but assisted Mr. Lind by advancing from the public money, of which I had the management. I never had occasion afterwards to mention the circumstance to my Lord Melville until April, in the last year, and he was perfectly unacquainted with my having made use of the public money in that transaction, and I charged his Lordship a regular interest for the whole of the money which I advanced, until the final settlement of our accounts.

Q. Did Lord Melville never enquire the name of the lender of the money?

A. I do not recollect that his Lordship ever did: I had stated in such positive terms that Mr. Lind could do it, that I never found it necessary to mention the circumstance again to Lord Melville, but took it for granted that he had thought I had concluded the transaction in the way that I supposed it could be effected.

Q. Did you mention Mr. Lind's name to Lord Melville at that time?

A. I did.

Q. Were the dividends upon that stock carried to the credit of Lord Melville's account?

A. They were.

Q. Did you direct any transfer to be made to Lord Melville of any part of that stock at any time previous to the year 1800?

A. I have no recollection of that circumstance. It was mentioned to me yesterday, but I do not recollect it.

Q. What was the amount of the sum originally expended in the purchase of this stock?

A. I have stated it in another place, and I have no reason to alter my opinion now from my recollection that it was 23,000l.

Q. Did the debt for the purchase of that stock continue to that amount until the stock was replaced, or repaid for?

A. It did not.

Q. In what manner, and to what amount was it diminished?

A. It was diminished by payments from his Lordship to me, to the sum of 20,000l. upon which his Lordship continued to pay interest to me until the final settlement of our accounts.

Q. In what manner was the 3000l. paid to you?

A. I have no distinct recollection of it, but I believe I have been paid at two different times.

Q. Was the 3000l. so paid carried to the credit of either Lord Melville's chest account, or his account current with you?

A. It was not.

Q. To what credit was it carried?

A. It was carried to the credit of the debt which was upon the stock.

Q. To whom was the 3000l. paid?

A. I had advanced the money for the stock myself, of course it was paid to myself.

Q. Was that East India Stock in possession, or was it still placed for the benefit of Lord Melville in May, 1800, when he quitted the Navy Pay-office?

A. He was possessed of it in the manner I have described. It was held in trust by the house of Messrs. Thomas Coutts and Co. and subject to my controul.

Q. Was it subject to your controul during the whole time it was out?

A. I do not recollect any interruption of it.

Q. Were the dividends always carried to Lord Melville's credit?

A. I believe they were.

Q. At the time when you proposed to Lord Melville to purchase East India Stock for him out of the public balances lying in your hands unclaimed, did Lord Melville ask you the amount of those balances?

A. I do not recollect that he did.

Q. Did he enquire whether you had in your hands assigned or unassigned balances, or whether you had both or either?

A. I never had any conversation with his Lordship on the subject.

Q. Were you ever restricted by Lord Melville in any way with respect to the quantity of money you were to keep at the house of Messrs. Coutts?

A. Lord Melville left the management of the balances in the Bank entirely to me. I believe I enjoyed his Lordship's confidence to the fullest extent, and he never interfered.

Q. Was there any restriction upon you as to the sums out of the Bank for that purpose?

A. There was none.

Q. There were no restrictions as to the branches upon which you were to draw when you took money from the Bank to place it at Messrs. Coutts's?

A. Lord Melville never interfered with me in the management of the balances at the Pay-office.

The question was repeated.

A. I have not the least idea of the meaning of the question.

Q. Did Lord Melville say that you might or might not draw upon the pay branch, that you might or might not draw upon the victualling branch, that you might or might not draw upon the navy branch, or did he mention any restriction as to either of them?

A. I have already said Lord Melville never gave me any instructions with regard to managing the balances of the office; therefore I do not know what the honorable managers mean by restrictions.

Q. Did Lord Melville order you to draw upon this or that branch for any purpose?

A. Certainly not.

Q. Did you ever draw drafts in favor of the Right Honorable Henry Dundas in your account at Coutts's?

A. Undoubtedly.

Q. Did you ever draw drafts in favor of Henry Dundas?

A. Undoubtedly.

Q. Did you ever draw drafts in favor of Mr. Dundas?

A. Undoubtedly.

Q. Do all these three descriptions mean the same person, the Treasurer of the Navy.

A. They did, unless some exceptions may exist in case of my having drawn in favor of Mr. Robert Dundas.

Q. Were those drafts in general in favor of the Treasurer of the Navy with small exceptions?

A. They were.

Q. Did you use either of those names, Mr. Dundas, Henry Dundas, or the Right Honorable Henry Dundas, in the draft of Messrs. Coutts, without the payment being made either to Lord Melville, or some person on account of Lord Melville, or some person having a money connection with Lord Melville?

A. It is probable I never did; but so many transactions of this sort took place, that it is impossible for me to say that there were no exceptions.

Q. It

Q. It is asked generally speaking?

A. Generally speaking they have collateral connection with Lord Melville's accounts.

Q. Was this East India Stock in May, 1800, when Lord Melville went out of office, either sold or pledged for the purpose of making up your deficiencies at the Bank?

A. It was deposited at that time.

Q. Was there any increase upon the value of that stock, from the time at which it was bought to the time at which it was either so sold or pledged?

A. The stock had risen.

Q. To what account was the money obtained upon the stock either sold or pledged, carried?

A. 20,000l. to pay off the debt upon that stock, and 8000l. of it went to pay me in part liquidation of the balance upon my account current.

Q. Had Lord Melville in fact the benefit of the rise of that stock?

A. Certainly he had, and the loss would also have accrued to his Lordship, in case the stock had fallen.

Q. Had he the benefit of the excess of dividends above the interest at 5 per cent. paid for the money during the whole time there was such an excess?

A. I do not know that the dividend did exceed the interest which he paid upon it, especially at first I believe it did not.

Q. Was there at any time a rise upon that between the time the stock was purchased and the time it was sold?

A. There was a rise upon the dividends on the stock, several years after it was purchased upon his Lordship's account.

Q. Was any security of any kind given to Mr. Lind for this purchase of East India Stock?

A. The Stock was invested in his name some time after, not immediately, as I understood from a document, which has been lately put into my hands.

Q. Did the accounts, which you from time to time delivered to Lord Melville, though not delivered at regular periods, include all the receipts and payments made and received by you on account of Lord Melville?

A. They did to the best of my recollection.

Q. Did you, at the end of the year, 1790, make up all the balances of the Navy Pay Office, at the Bank of England?

A. The account of the Bank of England would appear by my books to be balanced at that time; but whether the balance was exactly paid in or not I cannot ascertain, because some of my drafts may not have been presented, in which case that would form part of the balance appearing so to be paid in.

Q. Was the balance at the end of the year 1790, exactly so struck, and did it appear that there was no deficiency at that time?

A. There appeared to be; I could speak with more precision if the accounts were laid before me, which I have not had the advantage of for some time past.

Q. Did you make up the difference between the balance of the one account and the other at the end of the year 1790?

A. I cannot speak from recollection; my documents are in the hands of the honourable managers, and I probably should be able to speak with more precision if they were laid before me.

Q. If there was any difference between the office cash and the Bank cash, at the end of the year 1791, of what money did that difference consist?

A. It would consist of drafts of mine which had been presented to the Bank in part, and in part of the sum of money which Lord Melville was indebted to the chest account, and to me, upon my account current.

Q. Did that balance your are now speaking of, comprehend both the chest account, and the account current?

A. It did, to the best of my recollection of the accounts.

Q. Did the balance, outstanding from 1790 to 1799, comprehend those balances so due from Lord Melville?

A. It did, to the best of my recollection, of the settled accounts, always; but a small account may have existed upon the account current, which was not included in that.

Q. Did the difference between the office and the Bank balance at the end of each of those years which you have specified, denote, with a trifling exception, the sum of money which was to be made good by payments from Lord Melville to the public and to you?

A. It did to the best of my recollection.

Q. How long did you continue in office after Lord Melville left it?

A. Upwards of two years.

Q. Who was Treasurer of the Navy after Lord Melville?

A. Lord Harrowby succeeded Lord Melville, Mr. Bathurst succeeded Lord Harrowby, and Mr. Tierney succeeded Mr. Bathurst.

Q. Was any interruption given by either of those Treasurers to the practice of taking the money from the Bank, and placing it in the hands of Messrs. Coutts, or any private individuals?

Q. Mr. Bathurst ordered it to be altogether done away.

A. Was that order carried strictly into execution?

A. I do not know how I must be pinned down to the word strictly; Mr. Bathurst did not press it to be done within a few days, but to do it with convenience to ourselves, I might do it in the space of a month or so; there was no time particularised.

Q. Was it done within the month?

A. It was.

Q. Did you continue in the situation of Paymaster after the money was so placed at the Bank?

A. I did.

Q. When did you quit the office?

A. I left the office in one month after Mr. Tierney succeeded to the situation of Treasurer of the Navy, I do not recollect the time.

Q. Were you ever after appointed Paymaster of the Navy?

A. I was, by Mr. Canning.

Q. Did the same practice that had been ordered by Mr. Bathurst, prevail during the treasurership of Mr. Canning?

A. It did.

Q. Was the balance upon the chest account always against Lord Melville?

A. I believe it was.

Q. Was any security of any sort signed by Lord Melville to you, or to any other person, on account of the India Stock so purchased?

A. None.

Q. When did you quit the Navy Pay Office?

A. I believe

A. I believe in April in last year, I have no recollection of the precise day.

Q. Did you, while you were Paymaster of the Navy, make any cash payment with your own hand, on account of the public?

A. I do not recollect that I ever did, excepting in Exchequer fees.

Q. Did you always issue your money by drafts to your sub-accountant?

A. I recollect one or two instances wherein I did not, having a sum of money in the iron chest.

Q. Were those exceptions to the general rule very few?

A. Very few.

Q. Did you ever draw drafts upon the Bank of England, and go yourself, or send others to take cash or Bank notes from the Bank, to be paid to Messrs. Coutts, or elsewhere?

A. I do not know that I ever did personally, but I have sent others to do so?

Q. Have you, or any other persons, received such money without passing it through the hands of Messrs. Coutts?

A. I have no knowledge of its ever having been done. I have been informed it has been done.

Q. Do you recollect an instance of notes having been brought from the Bank of England, without passing through the hands of Messrs. Coutts?

A. I do not recollect any myself; my instructions were generally given to Mr. Wilson, who managed that for me; or Mr. Tweedy, at the Pay Office. I am told that has happened more than once, but I have no recollection of it.

Q. Do you recollect drawing one day for a million of money, and having received a million of money, without passing through the hands of Coutts?

A. I never drew for a million of money but once in my life, and that money went into the hands of Coutts.

Q. Was it paid into Coutts in Bank notes, or was the draft given to them?

A. My draft was given to the principal money conductor of the Pay Office, who went into the Bank with that draft; the notes being divided into a great number of small notes, and he brought them directly, and put them into the house of Coutts, as I understand.

Q. Then it was put into Coutts's bank, in Bank notes, and not in the shape of a draft?

A. I drew a draft as usual, upon the Bank, but instead of giving the draft to Coutts, I gave it to the clerk, who carried it to the Bank, and took the Bank notes to Coutts.

Q. Did you ever draw for small sums, either upon the Bank or upon the house of Coutts, for public services?

A. I do not know what the honourable manager may call a small sum.

Q. Did you ever draw for a less sum than a thousand pounds, either upon the Bank or Messrs. Coutts, on account of the public service?

A. I make no doubt I have often done so.

Q. Did you ever make any small payments on account of the public service, excepting Exchequer fees?

A. I do not recollect any, unless they were repayments into the Bank.

Q. According to the nature and to the practice of the Pay Office, since that account, have payments been made by the Paymaster in the ordinary course of the office?

A. I do

A. I do not recollect any; I do not know what the honourable manager alludes to.

Q. Do any payments to public creditors pass in the usual form of business, through the hands of the Paymaster?

A. I believe not.

Q. Are not all the books made by the sub-accountant?

A. They are, as I said before, except with regard to the Exchequer fees.

Q. Did you ever receive any gratuity from Lord Melville for acting as his agent?

A. Never.

Q. Is the book in which you kept the account current, and the chest account, destroyed?

A. It is.

Q. Are all the books containing any accounts between Lord Melville and you, and the vouchers, destroyed?

A. They are to the best of my belief.

Q. Did you ever lose one of these books whilst they were in existence?

A. I was robbed of one of those books at one time?

Q. Did your recover it again?

A. I did.

Q. How did you get it again?

A. I received it from one of the magistrates.

Q. Was that one of the books in which the account current and chest account, between you and Lord Melville, were entered?

A. It was.

Q. Look at this paper, is it signed by you?

A. It is.

Q. What does that paper purport to be?

A. It purports to be an account current between Lord Melville and myself, dated as commencing in the year 1782.

Q. Is that an account he balanced?

A. It appears to be so.

Q. Is it signed by both parties?

A. It is.

Q. Have you any vouchers in your hand, connected with that paper?

A. Here are vouchers, but I do not know whether they belong to it or not.

Q. Refer to them?

A. They do not seem to refer to the account, they are of a subsequent date. I see no reference whatever.

Q. Are they vouchers of any accounts between Lord Melville and you?

A. They are vouchers of three payments, which I appear to have made upon Lord Melville's account.

Q. Is the sheet, now in your hand, of the nature of those accounts, which you delivered to Lord Melville at certain periods?

A. It is.

Q. Were the accounts so delivered by you at certain periods, both on the chest and current account, so signed as that paper in your hand is signed?

A. They were.

Q. To whom did you give the direction for the purchase of 2000l. India Stock in 1792, for the benefit of Lord Melville?

A. I can

A. I can only judge from that circumstance, that most part of my transactions of that sort went through the house of Coutts and Co; and I have no doubt to them directions were given.

Q. To whom were the directions given for the purchase of 10,000l. of the Loyalty Loan, in 1797?

A. I gave no directions respecting that, to the best of my recollection.

Q. To whom did you give directions for the purchase of the 7000l. 3 per cents. reduced?

A. I presume also to the house of Messrs. Coutts and Co.

Q. Does Mr. Philip Antrobus, the broker, act for that house?

A. I have heard so.

Q. Do you know that he did at that time act for that house?

A. I believe it, but I do not know it.

The Lord Chancellor. "Will the honourable managers require to examine this witness again."

Mr. Whitbread. "My lord we do not at present know."

The witness cross-examined by Mr. Plomer.

Q. You speak of being appointed Paymaster in consequence of the recommendation you stated, having had an opportunity of being useful to Lord Melville in some regulations respecting the office, previous to your being appointed by him to the office of Paymaster?

A. I, very early after Lord Melville's first appointment as Treasurer of the Navy, presented his lordship with a plan for new regulating the business of the office, which I have understood was much approved of by his lordship.

Q. In what year was that?

A. I fancy it was in 1782; it was a very short time after his lordship was first appointed Treasurer of the Navy.

Q. Some time prior to your being appointed Paymaster?

A. A great many years before.

Q. In that interval, between the circumstance that first brought you to Lord Melville's notice, and your appointment as Paymaster, was any intercourse kept up between his lordship and you?

A. I believe I was known to his lordship during the time; but I had no particular intercourse with his lordship.

Q. The first circumstance you were interrogated to, after that of your being appointed Paymaster, was his lordship's acknowledgment of a balance in his hands of 10,000l. At the same time Lord Melville said that was in his hands, did he not say it was not applied to any private use, or emolument of his own, but to public purposes, from whence it was likely there would be a loss?

A. His lordship expressed to me, he was afraid that there might be a loss. The conversation might be pointed, but I do not recollect it so much as to be able to say that his lordship actually stated it to be for public services; but it is a very distant period, and it is possible he did.

Q. Have you the least recollection that Lord Melville acknowledged that he had applied it to any purposes of private benefit to himself?

A. None.

Q. Whether the sums for the purpose of paying the Exchequer fees which you have stated, had not for some time been a fund in the hand

of the Paymaster, which he used for his own emolument, when not wanted by the public?

A. I had understood that they had always been in the hands of my predecessors, Paymasters of the Navy; and that the parts which were not immediately required for the payment of the public fees were made use of; and as soon as the sum in their hands was reduced to under 3,000l. it was usual for the paymaster to make an application for a further sum of 3,000l. to be imprested into his hand for that purpose. That was the mode that was explained to me when I came into the office, and I received the balances remaining upon two Ex-Treasurerships; and soon after my appointment to the office, 3000l. was put into my hands to pay the Exchequer fees upon the current Treasurerships.

Q. It is thought you said the money, issued for the Exchequer fees is issued in a different mode from the money issued for public service?

A. I did state so.

Q. State wherein the difference consists?

A. All monies issued from the Exchequer to the Treasurer of the Navy, are in consequence of a letter from the different boards, connected with that office, desiring him to memorial the Treasury for such sums of money, excepting in the instance of Exchequer fees. He alone, is acquainted when they are nearly exhausted, and, when he finds them so, he includes an application for 3000l. into any memorial to be sent to the Treasury to be imprested into the Treasurer's hands.

Q. It is to be understood then, that all other sums of money for the public service must originate with some one of the Boards?

A. The whole of the money.

Q. There are different Boards that give directions for issuing of money; can any money be issued from the Exchequer, to carry on the naval service, without a letter from one or other of the boards?

A. It cannot.

Q. Does that letter, or a copy of it, accompany the memorial to the Treasury, for the issue of that money?

A. It does.

Q. Is that the case with respect to money that issues for the Exchequer fees?

A. I have endeavoured to explain that it is not, it originates entirely from the paymaster in fact, who is the judge when the fund is nearly exhausted.

Q. Was the course of office you have described, the same before the act of parliament, as it has been since the passing of the act of the 25th of the King?

A. The same I believe.

Q. Is then the issuing Exchequer fees a subject to which the regulation of the act of parliament, by the course of office, applies?

A. I presume it is, as I believe the act of parliament directs all sums from the Exchequer, to be issued from the Bank, and the money to pay Exchequer fees is accordingly issued to the Bank.

Q. Whether all the detail and management of the Paymaster's office has always been left to the Paymaster?

A. I believe it generally is; especially during the time I acted as Paymaster of the Navy, it certainly was, and altogether so in Lord Melville's time; some subsequent Treasurers have thought it necessary to attend to the business of the office more minutely.

Q. But during the whole period of time you have been acquainted with the office, has the transaction of it in detail always been left with the Paymaster?

A. I believe always.

Q. Was that the case during the whole period of Lord Melville's Treasurership?

A. As far as I know, it was.

Q. Was the whole management and drawing for the public money entirely left to you, during the period when you were Paymaster?

A. I believe it was.

Q. You stated that permission was granted by Lord Melville, to draw money from the Bank of England to Coutts's bank; whether the only reason represented by you to Lord Melville for that measure, was not to facilitate the official convenience?

A. Entirely so, I always stated so, the convenience that would arise and the great security of the money.

Q. State, if you can recollect, how you represented that it should facilitate the convenience of the office that that transfer should take place?

A. I represented the inconvenience that would attend the payments from the distance of the Bank, and proposed to his Lordship that a banker nearer should be allowed to keep the money in his hands till I found it necessary to issue it to sub-accountants.

Q. Did you state also to Lord Melville, in what manner the money would be more secure?

A, I represented to him the danger of sending in drafts to the Bank every day by messengers, who were obliged to bring out the produce of these in cash, to supply the daily payments.

Q. Whether, when this application was made by you, the office had not been removed from Broad-street, where it had been before situated, to Somerset House?

A. I believe it had.

Q. Though the Paymaster makes no payment with his own hand, does not the Paymaster furnish the supplies to the sub-accountants for all the money that is daily had?

A. He does.

Q. Was there the least mention to Lord Melville, at the time application was made for his permission to make the change you have stated, of any private emolument to be derived to any body from it?

A. None whatever; it was never in Lord Melville's contemplation, and I do not remember that it was in my own at that time.

Q. Was the permission, which was given to draw money from the Bank, to be deposited till it was wanted in Coutts's bank, entirely confined to the money that would be wanted for official convenience?

A. I do not know that the conversation extended to so great a length as to go into that minute part of the subject.

Q. But was there then, or at any subsequent time, any permission given by Lord Melville to draw monies from the Bank for any other purpose?

A. Never.

Q. You are understood to state, that you received Lord Melville's salary as Treasurer of the Navy?

A. I did so in most instances; I had thought universally so, till a statement was made from the Pay-Office, in which I found some few payments

had been made to Mr. Wilson, upon my account, and to others upon my account, and one payment to his Lordship.

Q. Besides the salary of the Treasurer which you received, did you also receive on Lord Melville's account, during the whole period of acting as his agent, various remittances from Scotland, and other places, on his Lordship's account to a considerable amount?

A. I did to a large amount.

Q. You speak of your attending Lord Melville, with a statement of his accounts, which was signed by his Lordship, as you are understood to state, and duplicates of the accounts left with him?

A. S. I stated the fact.

Q. Whether when you attended his Lordship on the subject of private business, and business of the nature you have stated, you observed whether his Lordship gave any particular attention to the business?

A. I was very much concerned, that I never could draw Lord Melville's attention particularly to the subject of his private accounts.

Q. Were not, in most instances, the accounts that were produced, brought by you, signed immediately upon the confidence Lord Melville reposed in you without examination?

A. I always debited the accounts to his Lordship, for his examination; and he may have looked at them; but I am conscious that he never attended to them particularly.

Q. Whenever you had occasion to attend his Lordship, upon any business of a public nature, or any business that related to the detail and management of the office in which his own private business was not concerned, did you find Lord Melville equally inattentive, or directly the reverse?

Q. I must state, directly the reverse; Lord Melville never interrupted me in any representations that I made to him respecting the public business of the office, unless it was merely telling me he had not time to attend to me at that time, and appointing another time, when I laid the subject before him.

Q. Is it to be understood, that when you waited upon Lord Melville upon the public accounts in which he was not personally interested, you were sure to have his attention, but could not get his attention in the same manner to his own private accounts?

A. That is what I mean to state.

Q. Whether Lord Melville did at any time require or receive from you any receipt or voucher or document of any kind upon these accounts?

A. I do not recollect that I ever gave him a receipt for any money in my life.

Q. Whenever you have paid money for him, did his Lordship, ever desire to see any voucher for that payment, or take it entirely upon the representation you gave of it?

A. I never failed to present the documents and vouchers to his Lordship, but I do not recollect any instance in which he required it.

Q. Have you any distinct recollection that can enable you to state what was the form or the contracts of the bond of this 4,000l. or whether it was not a bond in the usual form?

A. I have no recollection of it whatever, only I believe it did not bear interest.

Q. Have you any recollection whether its not bearing interest was, or was not specified in the bond?

A. I have no distinct recollection; but I do not believe that it was.

Q. The

Q. The first purchase you speak of was 2,000l. East India Stock; whether, after the documents you have seen on the subject, you have now any memory or recollection upon the subject?

A. I recollect, generally, that Lord Melville wanted to be possessed of a farther qualification of East India Stock; and he begged me to procure it for him; but whether he told me that he would immediately repay me the money or not, I do not recollect.

Q. Whether upon that occasion, or upon any other, Lord Melville ever directed you to lay out any part of the public money in your hands for his use and benefit?

A. He never did under the specific name of public money, or any money bearing that description.

Q. In every instance in which this stock was purchased by you, was it understood by Lord Melville to be purchased either out of Lord Melville's own funds, or from private funds for him by you?

A. I cannot precisely say that; I do not know any thing to the contrary; but I do not know what Lord Melville's conceptions may have been: he never expressed himself to the contrary to me.

Q Is there any instance in which, prior to the purchase of any stock, it was mentioned to Lord Melville by you, that it was intended to be purchased out of the public money, except in the instance of the purchase of the East India Stock?

A. Never, to the best of my recollection.

Q. Are you to be understood to state, that in the only instance where it was proposed, it was indignantly rejected?

A. I mean so to be understood.

Q. You are understood to state, that you did not originally give directions, nor are cognizant by whom the directions were given for the purchase of the subscription of the 10,000l. Loyalty Loan.

A. I am unacquainted who gave directions respecting that Loyalty, at least, I have no recollection of that, and I do not find that it passed through me, or by my orders.

Q. Can you recollect whether the first instalment that was paid for that Loyalty, was not paid out of the private funds, belonging to Lord Melville?

A. It may have been so, but I do not recollect the circumstance.

Q. You stated, that you had paid several instalments, from time to time, upon that Loyalty Stock?

A. I have.

Q. Was it at any time communicated to Lord Melville, whilst these payments were making out of what funds those advances were made?

A. Never; I believe they were made in consequence of demands which were made upon Lord Melville, and which I satisfied without any instructions from his Lordship,

Q. Can you recollect about what period it was, that the last of those payments in respect to this 10,000l. Loyalty was made?

A. I do not; but my accounts with Mr. Coutts must shew it.

Q. Do you remember the year?

A. I have no recollection of it.

Q. Do you recollect whether it was about September 1797?

A. I have no recollection of it.

Q. Do you recollect, that soon after the last instalments were paid upon that account, securities were given by Lord Melville, and a power

of attorney, for the sale of that and all his other stocks, to secure the repayment of what was due?

A. I perfectly recollect the circumstance.

Q. Did those securities cover an ample fund for the repayment of all those sums which had been advanced upon that account?

A. They did.

Q. You stated, that you directed stock to the amount of 7000l. three per cents to be purchased for Lord Melville; was that purchase made by any directions from Lord Melville of 7000l. three per cents?

A. It was made without any directions from his Lordship.

Q. How came the purchase to be made without any directions from Lord Melville.

A. I made it in the general management of Lord Melville's affairs; I believe a sum of money had come into my hand at that time for his Lordship, and I thought it was proper to invest it in some manner to produce an interest to his Lordship.

Q. Is it to be understood that funds had come into your hands, which before that time had been carrying a productive interest to Lord Melville?

A. I believe they had, either previously, or a few days afterwards; one of the payments was, I think, upon a bill which ought not to have been due upon the very day I made the purchase, but I believe the bill had come into my hands previous to my making the purchase.

Q. Was any precise communication ever made to Lord Melville respecting the mode in which that purchase had been made, or any particulars respecting it?

A. I probably mentioned it when I presented my accounts to him, but I do not recollect any particular conversation that I had with his lordship on the subject.

Q. You have stated, that Lord Melville indignantly rejected the offer of applying the public money to the purchase of India stock, and you then proposed to furnish him with the money, by procuring it of a relation?

A. I did.

Q. Was that relation's name mentioned to Lord Melville?

A. I mentioned my relation's name; it was Mr. Montague Lind.

Q. Was any security ever demanded of Lord Melville in respect to the loan that had been made for that purchase of stock?

A. None, because I had represented to his Lordship, that I thought I could procure it on the security of the stock being vested in the person's name of whom I should borrow the money.

Q. Was the stock, after its purchase, transferred as a security to cover the money that was advanced in the purchase of it?

A. It was not in fact; it was invested in Mr. Lind's name for my account.

Q. Did it ever stand in the name of Lord Melville?

A. It never did.

Q. At first you stated that the amount of the interest for the money borrowed for the purchase exceeded the dividend?

A. I believe it to have done so.

Q. When that was the case, was Lord Melville charged with the difference?

A. He was regularly charged with the interest, and got credit for the dividends, whatever they were?

Q. Then

Q. Then, at that time, was he not an annual loser by the purchase of that stock?

A. I believe his Lordship to have been so inasmuch as the interest exceeded the dividends.

Q. When this purchase of East India stock was made, was there not the prospect of an immediate rise, or that in the course of time it would rise?

A. His Lordship certainly alluded to a distant prospect from the progressive state of the affairs of India towards prosperity.

Q. Whether Lord Melville ever knew that the person who advanced this money, was any other person than Mr. Lind, until after the publication of that fact in the Tenth Report, or from the late enquiries?

A. I never thought it necessary to inform his Lordship of it, and have no reason to believe that he ever knew it.

Q. Have you the least reason to believe that Lord Melville knew or supposed any part of that advance to be public money?

A. I have no reason whatever.

Q. You spoke to two sums, one respecting Sir William Forbes and Co. the other Mansfield and Co., the one of 2,000l. the other of 2,200l. have you any recollection of the funds from whence they came, or any thing respecting them?

A. I have none whatever, excepting what I gather from an examination of Mr. Coutts's books, from which I see that they were advances from his account, and from my own letters.

Q. Have you any reason to doubt but that the payments made upon that subject were repaid out of the private funds of Lord Melville?

A. I have no reason to doubt it; as there were frequent payments subsequent to that, and they went in reduction of the general account in which those sums were included.

Q. You were asked whether Lord Melville at any time imposed any restrictions upon you with respect to the quantums of your drafts upon the Bank, or specified what were to be the limits of them under either head. It is wished to ask whether Lord Melville ever said any thing to you upon the subject?

A. Never; the subject was never mentioned.

Q. You were interrogated respecting a million of money that was once drawn from the Bank; was that circumstance known to Lord Melville?

A. I am persuaded I never communicated the circumstance to Lord Melville; whether he may have learnt it from other quarters or not, I do not know. I never made any secret of it, but mentioned it frequently.

Q. What was that drawing of money to that large amount?

A. It was the amount of several months Navy bills that were directed to be paid off at the time, for which a sum of upwards of three millions was issued to me upon one particular day, and I chose to draw one million from the Bank, and put it into the hands of Coutts and Co. in order to accommodate the bill-holders at the west end of the town. When the bills were presented a few days afterwards (which intermediate time was necessary from the business of the Navy office, in which they calculate the interest upon those bills) they gave, as the bill-holders preferred, my drafts upon Coutts' bank in discharge of their bills upon the Bank of England.

Q. How

Q. How long was it before it was all paid away?

A. I think it was five or six days before the interest was calculated at the office, and all arrangements made before the bills began to be presented; but after they began to be presented, I fancy it was paid as close up to the balance as other payments of the navy in the course of a very few days afterwards. There is always a sum which remains unclaimed.

Q. Have you been much conversant with figures, and made them much the subject of attention?

A. I have.

Q. Was not the whole business of the accounts, both of the office and all the private accounts of Lord Melville, left entirely to your management?

A. The whole of the public accounts were left entirely in my management, and some of his private accounts as were put under my management.

Q. You have been asked as to your own use of the public money removed from the bank of Messrs. Coutts; you are understood to say that you made use of it in point of fact for your own benefit?

A. I certainly made use of that part which I found was not likely to be claimed for my own benefit.

Q. In what mode was that made use of?

A. Generally by lending it at interest; at times by investing it into Exchequer or Navy bills, or other government securities.

Q. Was that to a very considerable amount?

A. It was.

Q. Were the whole profit and emolument derived from that mode of laying out the money which you have described entirely your own?

A. Entirely.

Q. Was any intimation or knowledge ever communicated to Lord Melville of the public money having been so used?

A. I never made any such communication to Lord Melville.

Q. Whether, during the period that you have spoken of having acted as Paymaster to Lord Melville, and while those transactions were going on, the public service of the navy at any time suffered the smallest loss, disadvantage, or interruption, in consequence of the transaction you have spoken of?

A. I do not know any instance wherein the public have suffered any loss, obstruction, or delay in the payments from the use that has been made of public money, or the manner in which I kept my balances elsewhere than in the Bank.

Q. Was the public money at all times safe, and were proper securities taken for it at all those times?

A. I believe it at all times to have been so.

Q. Did any one circumstance happen during the period of Lord Melville's executing this office, that could have called his attention from any interruption the public service might have received during any part of the period, owing to the use that was making of the public money?

A. I never heard of any.

Q. Whether during the period of Lord Melville's executing his office, sums to the amount of one hundred and twenty millions did not pass through his Lordship's hands, or through his office?

A. More or less I believe so.

Q. During all that time was there a loss sustained by the public, or any impediment suffered by them of one single farthing?

A. Not in consequence of the transactions which have been particularly alluded to, to the best of my recollection.

Q. You spoke of some regulations approved and adopted by Lord Melville; were those regulations calculated to increase the balance in the hands of the Paymaster or Treasurer, or directly the reverse?

A. I do not think that they had any influence either one way or the other; it was merely a different mode of making up the accounts.

Q. Is it meant those regulations that were made, by which seamen were enabled to make allotments for the maintenance of their families in their absence, or to facilitate the receipt of money due to them? whether regulations to that effect were not made, and whether they did not tend to reduce and not increase the balances?

A. Certainly. I thought the learned counsel alluded to the regulations proposed to his lordship in 1782.

Q. At what period in 1802, did Mr. Bathurst alter the mode of making the payments in future?

A. I am unable to state that.

Q. Was not an alteration made entirely to obviate any inconvenience of a future investigation, before any enquiry had taken place before the Commissioners of Naval Enquiry, whether the evil was not remedied before that enquiry?

A. I believe it was.

Q. Has not that course been continued ever since?

A. It has to the best of my knowledge.

Q. What is that remedy which has been adopted?

A. That the money shall remain in the Bank until wanted for payment, as nearly as possible.

Q. Is the money remaining in the Bank to be written off from one account to other accounts?

A. Instead of drawing the money from Messrs. Coutts' house, and issuing it to the sub-accountants from that account, the money is made over to one of the sub-accountant's accounts at the Bank, and he draws himself upon that account. The whole difference is, that the money remains in the sub-accountant's account at the Bank, instead of the sub-accountant's at Messrs. Coutts.

Q. Does it then, in consequence of this alteration, become a private account, kept with the Bank, by each sub-accountant, when a certain account is written off to the credit of such sub-accountants?

A. I believe that the accountant has a perfect controul over the account. I do not know what constitutes it a public account, further than being kept in the Bank.

Q. Then after the credit is written over from the Treasurer's account to each sub-accountant's account, each accountant has the power of drawing out the money as he shall think fit?

A. He has as much the controul over it as he had when the money was put into his name in his account at Mr. Coutts's, as far as I understood.

Q. If no permission had been given at all of drawing from the Bank to Coutts's Bank, as a place of temporary deposit, whether all the same use might not have been made of the public money, by drafts, in the same way at the Bank?

A. Certainly; but it might have been considered a greater dereliction of my duty.

Q. Whether

Q. Whether the same use might not have been made of the public money, being laid out for private benefit, without its reaching, in the intermediate transit of it, any private bank?

A. That is exactly the question I answered before, that I think it might be made use of in exactly the same manner, but that if I had done so, I think it might be considered as a still greater dereliction of duty.

Q. Whether the small payments that are daily made in this great department, the Navy department, can be made any otherwise than by cash in the hands of the sub-accountants?

A. I do not apprehend it to be possible; and I am told the present Treasurer attempted it, and could not carry it into execution.

Q. Is the amount of those payments, and the number of those that are daily made, such as certainly could not, with any possible practical convenience, be made by drafts upon the Bank?

A. It certainly could not be done, by any means, in my opinion.

Q. How low, in point of value, do some of those payments go?

A. Certainly as low as one shilling some of them.

Q. Are they very numerous under 10l. or 2l. or even 1l. in value?

A. I believe there are many thousands made monthly, lower than 10l. and even lower than 2l.

Q. State, as nearly as you can, as to what was the average amount of money due to the payees of assigned bills?

A. I never had occasion to make a calculation of the average, excepting once, and then I was assisted by the then Treasurer of the Navy Mr. Canning, and we found it averaged for a considerable number of years, about 143,000l.

Q. What do you mean by a balance of that nature being due to the payees of assigned bills?

A. It is the amount of bills, which the several Boards have drawn upon the Treasurer of the Navy, and which have been put into the hands of the persons who are entitled to receive them, but who have demanded the payment of them; the Treasurer in that situation stands exactly in the situation of a Banker, in which a balance accrues in consequence of unclaimed demands upon him.

Q. When bills are drawn upon the Treasurer, is the list of the bills so drawn communicated to the Treasurer?

A. A list is sent from the Board of the bills which they assign upon the Treasurer for that day, by which the Treasurer understands he is to be prepared to make payment of bills to that amount; but bills to that amount seldom or never came in all together, the whole amount is not generally presented for some time, by which means an aggregate balance is formed and created, which lies unclaimed in the Treasurer's hands.

Q. From the moment that list is communicated to the Treasurer, is it the course of the office to credit his account, or the amount of bills that are so drawn?

A. It is the course of the Navy Office, and of the different offices whose Boards draw upon the Treasurer of the Navy, to give the Treasurer credit for the full amount of those assignments.

Q. Are those bills payable at sight the instant they are presented?

A. They are, excepting the ninety-day bills, which are never presented till the day they are due.

Q. Are all the other bills payable to the payees at sight?

A. They are.

Q. Is

Q. Is it competent to them to call and receive the money whenever they think fit?

A. It is.

Q. If any delay takes place, or any balance remains unclaimed for any period of time, is that entirely the act of the holders of the bills?

A. It depends entirely upon the holders of the bills, or upon other causes not dependant upon the Treasurer of the Navy

Q. Is the fund that is thus assigned considered as reserved for their use during that interval?

A. I understand that admits of different opinions; it is certainly my opinion that it is the property of the holders of the bills.

Q. From the moment the list is received of the bills assigned, you are understood to say, that the Treasurer must be ready to satisfy them when called for?

A. He certainly may be called upon. I beg to explain that I have said; there never has been any delay of a payment of a navy or victualling bill; but there is another description of bills, which are not called navy or victualling bills, which I did not advert to at that time. All navy or victualling bills are drawn assignable out of a certain sum of money received at the Exchequer; as long as that fund lasts the bills are drawn from that fund; but there is another description of bills, not to a great amount, which are drawn upon the general fund of wages, without specifying any particular sum; and when the fund under the head of wages has been low, the Navy Board have thought proper to desire the Treasurer to cease making payments of those bills, until a supply under the head of wages should be received from the Treasury.

Q. Does the delay in any respect proceed from any act either of the Treasurer or his paymaster?

A. Not in any degree whatever.

Q. You have been asked, upon drafts made in the name of the Right Honorable Henry Dundas, Mr. Dundas, and Henry Dundas, have you discovered instances which lead you to believe that the name of Mr. Dundas was sometimes inserted when the money was not for him, nor applied to his use?

A. I do not recollect having discovered any such instances; they were generally to his use, or collaterally for his use.

Q. Whether you have not found instances of money being directed to be paid in the name of Mr. Dundas, which, in point of fact, was not so applied?

A. I have found instances wherein the money was not directly paid to Mr. Dundas; but I have found no instance wherein the money was not in some measure or other connected with Mr. Dundas.

Q. There is an instance on the 24th of July, 1789, to cash paid Henry Dundas, 1,764l. 18s. 10d.

A. That was a transfer in one of my own accounts to the other; the same sum was advanced to Lord Melville in two different sums, and charged to him in my other accounts with Messrs. Coutts, so that it came doubly charged to Mr. Dundas.

Q. Do you recollect any entry of this nature, "To the Right Honorable Henry Dundas, Act of Parliament account, or pay Henry Dundas account 2,500l." Whether instances do not occur of entries of that kind, which, in fact, were never paid to Mr. Dundas, or on his account?

A. There are entries of that description, but they are very different from "pay Mr. Dundas," they are "pay Mr. Dundas' New Account," which means that they were paid into his new account at the Bank, or paid into his first account, in which case they were paid into his first account at the Bank; there his name was made use of, without his having any connection with the money.

Q. Whether there are not entries to the same effect where it is not the Act of Parliament account, or the New Account, but simply Henry Dundas, or the Right Honorable Henry Dundas, without any addition?

A. I am unable to explain that, unless I knew the specific entries. I should rather apprehend that they went to the credit of his account, at the same house upon which I drew.

Q. You are understood to have stated that release to have been executed by you in London?

A. Yes.

Q. Was Lord Melville at that time in Scotland?

A. He was.

Q. Were any directions given by Lord Melville as to the form of that release, or as to any particular clause which it should contain?

A. None whatever to the best of my recollection.

Q. An account has been given of your having destroyed some books of account; whether any one book of that sort was destroyed, by any direction, or under any previous communication to Lord Melville?

A. None whatever.

Q. Was that circumstance ever known, to your knowledge or belief, to Lord Melville, till after the publication of the Tenth Report?

A. I do not know that his Lordship ever was acquainted with it before that time; but I only speak from memory, because I may have communicated it to his Lordship sooner. I do not recollect the particular time when I communicated it to his Lordship.

Q. Are you quite sure that it was communicated to Lord Melville?

A. Perfectly so.

Q. Was the mode in which you kept your account with Mr. Coutts, and the mixture of private and public money entirely your own act, without any knowledge of Lord Melville?

A. It was an act entirely my own; and Lord Melville never had any knowledge whatever of the manner in which I kept my accounts at Mr. Coutts's.

Q. Whether the destruction of the books of account by you was stipulated in the lease for any purpose of concealment, or any benefit to Lord Melville?

A. I had not Lord Melville's interest in contemplation at the time I destroyed the books?

Q. Had you any money transactions with Mr. Sprott?

A. I have had considerable transactions with Mr. Sprott.

Q. Were any one of these transactions communicated to Lord Melville, or was ever the least benefit derived to his Lordship from them?

A. I do not believe that Lord Melville had the smallest knowledge of my transactions with Mr. Sprott, nor did he derive any advantage from them.

Q. State

Q. State generally, without entering into detail, whether the use which you made of that public money to your own emolument, was to a very considerable amount?

A. It certainly was to what I call a considerable amount.

Q. Was it a use made commonly from month to month?

A. It was.

Q. You were understood before to have stated, that the whole benefit derived from all that use of the public money, that went on from month to month, was exclusively your own?

A. All, excepting the sums which I have stated to have been advanced by Lord Melville, upon which I do not know that any profit was made, excepting as far as I have explained.

Q. Was not the difference between the Bank balance and the official balance created by money drawn by you from time to time from the Bank, for the purposes you have before stated?

A. The whole was included in that difference.

Q. At the time Lord Melville went out of the office, in 1800, were there more balances due upon the Ex-Treasurer's account of 1782, the first Treasurership, and the first part of the second Treasurership, and did they together amount to more than 10,000l.?

A. I think they each exceeded 5000l. consequently they must have collectively exceeded 10,000l. but only a few hundreds, it was about 11,000l. I believe.

Q. Had any part of that sum, during all that period, been ever wanted for the public service?

A. Certainly not, to the best of my recollection.

Q. Was there, to your knowledge and belief, any delay in passing the accounts of the Ex-Treasurer, so as to retain that balance in his hands?

A. There was a great delay in passing the accounts, but not all proceeding from the Treasurer or the Paymaster.

Q. What was the cause of that delay?

A. From the necessity of a co-operation between the clerks of the Navy Office and the Pay Office. The Navy Office had thought proper to withdraw their clerks from the business of making up the accounts of the Ex-Treasurer, in order to send them to the out-ports, and otherwise to disperse them in the current business of the office; and the Treasurer found himself under the necessity of doing the same thing.

Q. Was Lord Melville, if these obstacles had not occurred, at all times ready to pass his accounts?

A. The passing the accounts I understand to be the making up the accounts, which did not depend upon Lord Melville.

Q. Whether the quantum of the balance issued to the Treasurer at any time depended in the least upon any act either of Lord Melville or his Paymaster?

A. Certainly not.

Q. Was any one act, at any one period during the whole time of Lord Melville's Treasurership, done either by him or his Paymaster to augment those balances?

A. It was not in the power of either of us to augment the balances by any act that we could have done; and consequently neither of us, to my knowledge, ever committed any act so as to produce that effect.

Q. During the whole period was the actual quantum of official balance fairly and properly communicated to the Boards?

A. The office returned accounts every fortnight to the different Boards, in which the balance of the Treasurer was stated, and they were regularly made acquainted with it.

Mr. Plomer said that he did not recollect any other question which he wished to put; but probably in so extensive an examination some might afterwards occur, which, he trusted, the Court would have the goodness to permit him to put.

Mr. Whitbread. "The Managers have many questions to put on the re-examination."

Lord Chancellor. "What length of time will they require?"

Mr. Whitbread. "I do not know, my Lord."

SEVENTH DAY,

TUESDAY, MAY 6TH,

MR. Whitbread. "My Lords, the Commons propose to call back Trotter, for the purpose of re-examining him upon matters connected with the charges.—Upon others to which the cross-examination extended they shall have no occasion to re-examine him."

Mr. Alexander Trotter was again called in, and examined by Mr. Whitbread.

Q. Whether Lord Melville ever transacted any part of the business of the Pay Office, or gave any directions whatever concerning it? By business is meant the official business of payments and receipts.

A. I was going to make that distinction; that in the actual execution of business Lord Melville seldom or never interfered; but he paid attention at all times to the representations of difficult cases and proposals that were made for improving the mode of conducting the business of the office?

Q. Were any representations ever made to him concerning the office payments or receipts in the ordinary course of business, and not with a view to any new regulations?

A. In the ordinary course of the office no communications were made to Lord Melville; but in any extraordinary cases, such as I thought it was necessary to represent to Lord Melville, I did not fail to do so.

Q. Of what nature were those cases?

A. They are of such variety that I can scarce mention them; but if any person made a claim that he was not strictly entitled to, or that some doubt had arisen upon it, if Lord Melville were near the office, I commonly applied to him, to know what I ought to do on such an occasion.

Q. Did you, on these occasions, submit the books of the office to his Lordship?

A. If the cases required it I did.

Q. Did such cases often occur?

A. Very seldom.

Q. Did you ever pay any money into the hands of Lord Melville personally?

A. I do not recollect ever having done so. I may have paid his salary once, or small sums of 20l. but I do not recollect any particulars concerning it.

Q. Did

Q. Did you ever receive from Lord Melville any money which required a receipt?

A. I have received money from Lord Melville, but I do not recollect ever having given his Lordship a receipt.

Q. To what amount were the sums which passed from the Paymaster to the Treasurer?

A. I have only an impression on my mind that I have received considerable sums from Lord Melville, but do not recollect the particulars of any.

Q. The last question applied to payments made to Lord Melville?

A. I beg to have the question repeated, as I misunderstood it.

Q. Did you ever pay to Lord Melville personally any sums of money which required a receipt from his Lordship?

A. I do not think I ever paid any sums so large as to require a receipt, excepting that I paid his salary. In one instance, I find his Lordship received it, and he might sign the office receipt for his salary.

Q. Did he sign such office receipt?

A. The whole is but a faint impression upon my mind. If I presented it for his signiture, no doubt he signed it; but I do not recollect the particulars.

Q. You stated that Lord Melville was inattentive to his private affairs, before that you stated that Lord Melville actually signed all the private accounts presented to him. Did those accounts contain a history of your private money transactions, did you give a proper account of those private transactions, in the accounts so delivered to Lord Melville, which he was in the course of signing?

A. I did.

Q. Did Lord Melville sign them?

A. I do not recollect any thing to the contrary.

Q. Was the bond which was stated yesterday to have been given for 4000l. in an early part of your connection with the Treasurer of the Navy, given up or kept by you?

A. I believe it was given up and destroyed. It is so many years ago that I do not recollect exactly what became of it; I believe it was given up.

Q. Upon what occasion was it given to Lord Melville?

A. From payments having been made upon that account which exceeded that 4000l. in which case I did not think it was proper to keep the bond.

Q. Was the account stated and balanced accurately at the precise time at which the bond was given up?

A. I believe it was not; I do not recollect that it was.

Q. Is this Court to understand that the account current of a sum, in which account that bond applied, and which sum formed the first item of that account, was still an open account current at the time the bond was given up?

A. I believe it was.

Q. When Lord Melville gave orders or directions to you to pay money on his account, did he specify at all out of what fund that money was to be paid?

A. I do not recollect any instance in which his Lordship so specified.

Q. Was

Q. Was there any difference in the mode of Lord Melville's application to you, at the times when he wished money to be debited to him in the account current, and at the times when he wished money to be debited in the chest account?

Mr. Plomer objected to the question.

Mr. Whitbread. Q. Did Lord Melville ever make any distinction in his mode of application to you when you were to debit his account in one or the other way?

A. In manner I conceive his Lordship did.

Q. What was his manner or mode of speaking and addressing you at the time that you understood he wished to have money debited in the account current?

The Lord Chancellor desired the managers to put a preliminary question.

Mr. Whitbread. Q. Did Lord Melville by any words or any mode suggest, or in any way ever convey to you an intimation that he wished a certain sum of money advanced to him to be debited in his account current?

A. I can only speak in general terms, as different circumstances would of course attend different circumstances upon that account, and in speaking in those general terms I say his Lordship would probably enter into an explanation of monies which he expected to receive soon, and under that impression he requested me to accommodate him with a sum; they seldom were large sums, until such times as payments came into his hands. I only speak in general terms.

Q. When such request had been conveyed to you, to which of these two accounts you have stated to be opened between Lord Melville and yourself, was that money debited?

A. The account current.

Q. Was there any other mode of application described in the way I before described to you, when Lord Melville wished it to be debited to any other account?

A. I can to this question also only answer in general terms. His Lordship generally required, that such a sum should be paid, without coming to any explanation with me at all upon the subject.

Q. Was that requisition which you are now attending to, in the nature of a command from Lord Melville to you for that purpose?

A. I considered it as such.

Q. Would you have thought yourself bound to debit Lord Melville for any sum of money he had chosen to require on the chest account?

Mr. Plomer objected to the question, and it was waved by Mr. Whitbread.

Q. Did you ever make any remonstrance upon the magnitude of any sum that was afterwards carried to the chest account?

A. I never did, because it never interfered with the convenience of the office, as a much greater sum than Lord Melville ever demanded under these circumstances might have been spared from the unclaimed balances.

Q. Did you ever hold any conversation with Lord Melville, on the situation

situation which you held in the Navy Pay Office, expressive of your gratitude for having been placed in that situation?

Mr. Plomer stated that this question related to perfectly new matter, and Mr. Whitbread waved the question.

Q. Could any body have drawn the money from Mr. Coutts which was placed there by you, except yourself, or some person vested with your special authority?

A. It appears to me that this is a matter more for the determination of Mr. Coutts than myself; and I do not know what Mr. Coutts would have done under the circumstances of a person unauthorized presenting a draft.

Q. Supposing any third person, unauthorized by you, had presented a draft for payment by Coutts, and if Coutts had debited you in your account for such unauthorised payments by him, should you have conceived Mr. Coutts had acted honestly or properly by you?

A. That depends entirely upon the circumstances which had accompanied the transaction; I should certainly think, that Mr. Coutts had done me a favour by granting it to certain people under certain situations, when I should have been very much surprized at it in other situations.

Q. Could any body have received your money from Mark Sprott, Augustus Lind, and others, unless vested with your special authority, excepting yourself?

A. I conceive the same answer to apply to this case, that I have given to the case of money demanded from Mr. Coutts.

Q. Could any body have had the power of selling or changing the securities taken by you for public money, unless specifically apprized by you?

A. Mr. Thomas Wilson had a general authority from me.

Q. Had any other person?

A. I believe not; I do not recollect any other.

Q. Had the Treasurer of the Navy himself any given authority, vesting him with the power of controuling your private monies, or the securities taken by you on account of these private or public monies?

A. None.

Q. Did Lord Melville repay the money to you with which 2000l. East India Stock in 1792 was purchased, or did that money form a part of the account current between you, till the final close of that account in the year 1809; the East India Stock bought being 2000l. and the purchase money 2000l.?

A. I placed that sum to the debit of Lord Melville's account current, and I believe every man of business must know that when payments are made upon that account current, it is impossible to say what particular sum was so paid.

Q. Whether there was a specific sum of money appropriated by Lord Melville to the discharge of that specific sum?

A. I do not recollect any.

Q. If all the money had been according to the directions of the 25th of the king, and such an improbable event had taken place as the failure of the Bank, should you have considered yourself responsible for the money so left in the Bank of England, according to the act of parliament?

A. I should not.

A. And if Messrs. Coutts had become insolvent, should you have considered

sidered yourself as responsible for the use of the sum lost by that failure?

A. I confess I should, though I looked upon that circumstance as impossible.

Q. Supposing such a very improbable event as the failure of Coutts's house had taken place, had you at that time any fortune of your own by which you might have made good such a sum?

A. That depends entirely upon the balance that was in Mr. Coutts's hands at that time?

Q. Supposing the balance had amounted to 50,000l. had you any such probability in such a case of repaying it?

A. Until very late years, I do not think I had a fortune that could have made good that loss; of late years I could have made good that loss, as my fortune exceeds it, perhaps ten or fifteen thousand pounds, and no more.

Q. When you came into the Navy Pay Office what was your private fortune, exclusive of your salary?

Mr. Plomer objected, that this was going entirely into new matter, not in the cross-examination.

Mr. Whitbread. "My Lord, I speak from a note of the words of the learned counsel who examined the witness as to the increased securities of the public cash. I trust I am perfectly in order."

Mr. Plomer waved the objection.

Mr. Whitbread: "I am glad of this, for the sake of the learned counsel."

Q. What was your fortune, independent of your salary, at the time of your appointment to the office of paymaster to the Treasurer of the Navy?

A. I do not recollect accurately, but certainly not great, not perhaps exceeding one or two thousand pounds.

Q. Have you had any great accumulation of fortune by any event independent of your situation as paymaster of the Navy?

A. I have had considerable acquisitions by an inheritance.

Q. To what amount?

A. I was going to explain. It was considerable in proportion to my fortune, although it may not be in the eyes of many people. I suppose somewhere about sixty or seventy thousand pounds.

Q. Is that the extent of your accumulation of fortune, independent of what you derived in one way or other from the Navy Pay Office?

A. I also had an acquisition of fortune, small I must confess, by marriage.

Q. To what amount?

A. I suppose about three thousand pounds.

Q. When did this acquisition by your marriage take place?

A. Part of it upon my marriage in the year 1797.

Q. When did the other acquisitions take place, or the largest quantity of them?

A. At the death of my brothers, which was about—I am totally unfit to answer the question, from not being able to make up my mind as to the distance of time, it might be eight or ten years ago.

Q. What might your acquisition be upon that occasion?

A. I inherited by one the sum of 5000l.

Q. How much by the other?

A. I cannot tell how much, because it came into my hands at different times.

Q. Was it as much as 5000l.

A. No, it was not.

Q. Was it as much 3000l.?

A. It may be, but I do not know.

Q. Are you in possession of any landed property?

A. I am.

Q. Is Lord Melville acquainted with that fact?

A. I believe he is.

Q. Was he acquainted with the fact at the time the acquisition of landed property took place, or thereabouts?

A. I purchased my land at four or five different times; I do not know that his Lordship was acquainted with each different purchase.

Q. Was Lord Melville generally acquainted that you had become a man of landed property in Scotland?

A. I presume he was; for, although it is not a great purchase, yet it is not so insignificant as to have escaped his Lordship's notice.

Q. What do you conceive to be the amount of your property at this moment?

A. I had occasion, about a year ago, to make up a statement of my property; and at that time I valued it, at what I considered to be a very fair valuation, at about 51,000l. or 52,000l. but it was so invested as not to produce an income of more than 1200l. per annum.

Q. Has the office of paymaster been encreased considerably since you were originally appointed to it?

A. It has.

Q. To what amount?

A. To the sum of 800l. per annum.

Q. Did that increase take place before Lord Melville left the office in the year 1800?

A. It took place at the very time, I believe.

Q. Did it take place at the time or immediately after Lord Melville left the office?

A. I do not know whether the first payment of my salary commenced before or after.

Q. Did it take place before the 1st of January, 1800?

A. I believe not.

Q. Whether drafts upon the Bank of England are in your estimation effects as valuable as drafts upon the house of Mr. Coutts?

A. It depends upon who makes the drafts, I take it.

Q. Supposing always, that the person who makes those drafts, upon the one or the other, has effects in the hands of that one or other person, and that he does not exceed in drawing the sum for which he has credit. Supposing you have 10,000l. in the Bank, and 10,000l. in the hands of Mr. Coutts, and you were to give a draft to one person for 5000l. on the Bank, and to another for 5000l. on Mr. Coutts, should you think your draft on the Bank would be answered as readily as the draft on Mr. Coutts?

A. I should certainly think it of equal value.

Q. You have stated in answer to a question upon the cross-examination of the learned counsel, who asked you whether the Navy Pay Office had been removed during your paymastership, from Broad-street in the vicinity

of

of the Bank to Somerset Place, which is at a greater distance from the Bank, what were the usual official hours while you were paymaster, according to the common routine of business, when business began in the morning, and when it ceased in the afternoon?

A. From ten till four o'clock were the hours of attendance; but the payments, I believe, stopped sooner.

Q. At what hour did the payments stop?

A. I believe generally at two; but as I was not in the habit of making payments myself, I speak from the general habits of the office.

Q. Do you know at what hour of the day payments cease at the Bank of England?

A. I do not.

Q. Did you confine your use of the public money, to such sums only as were wanted for official convenience?

A. I do not comprehend the question.

Q. You stated upon your cross-examination that the average balance of the unassigned and unclaimed money, was about 143,000l. did you confine yourself at all times to the use of the sum of 143,000 only?

A. I did not; that is to say, I had greater sums out of the Bank, and in Mr. Coutts's hands, and elsewhere.

Q. When these sums were so out from the Bank, did you always take care to have the larger part of them in the hands of Mr. Coutts, for the purpose of answering official demands?

A. I have stated that the whole of it, as far as I can recollect, passed through Mr. Coutts's hands, but I do not mean to say that it remained in Mr. Coutts's hands till the payment was required.

Q. Did you confine yourself to the sum assigned always, in drawing upon the Bank for your own private use?

A. I did not.

Q. Did you ever take any pains to enquire into the average amount of these unassigned claims, before your calculation with Mr. Canning?

A. I cannot say I ever did.

Q. When did that operation of the calculation with Mr. Canning then take place, or whereabouts?

A. About March last, I believe.

Q. On what account was that calculation made?

A. From the subject having become a matter of consideration with Mr. Canning.

Q. Was it a matter of consideration with you also, at that time?

A. I did it more to assist him in his views than having any myself.

Q. Did you always consider the state of your account at Mr. Coutts's, when you drew out money for your own purposes?

A. I cannot say that I did. I rather considered the balance that was in the Bank, and conceiving it to be larger than would probably be demanded at an earlier period, I withdrew some of part of it, and put it into the hands of Mr. Coutts.

Q. Has your account at Messrs. Coutts ever been at an average below the unassigned part?

A. Very often, I have overdrawn Mr. Coutts's house.

Q. Have you ever overdrawn that account?

A. I have.

Q. Did you ever give a draft on the house of Coutts in favor of sub-

countants, for a smaller sum than you have given upon the Bank of England for the same sub-accountants?

A. I do not recollect that ever I did, but on the multiplicity of payments that appear on these accounts, I hope I shall not be urged to make specific answers to such specific questions.

Q. Did you ever, in your official situation, give a piece of paper of any description, a draft upon any body, or any house, purporting to be a draft for a fractional payment below one pound?

A. I do not recollect that ever I did.

Q. Did you ever issue to any of the sub-accountants a draft of so low a sum as 10l. for the purpose of its being immediately paid, one of the payees having an immediate claim upon that fund?

A. I do not recollect having done so.

Q. Did you ever make payments to the payers of the Navy and Victualling Bills, excepting through your snb-accountants?

A. I do not think I ever did.

Q. Did you when Paymaster of the Navy make your issues daily to the sub-accountants?

A. I generally did.

Q. At what time in the morning did you actually take your seat in the office?

A. I believe I was pretty punctual in my attendance at the office, at the office hour of ten o'clock.

Q. Did the sub-accountants, upon your taking your seat, come with the balances regularly to you in the course of Office, with signed lists from the Navy Board for each day?

A. They generally did so but not uniformly.

Q. Was it the practice of the Paymaster, at that time, to issue to the sub-accountants drafts for the whole of the money which might be claimed under the assignment and list which was so sent from the Navy Office.

A. I generally issued the full sum, unless I found that the Cashier had a balance in his hands by which he could assist that payment.

Q. Did you learn from the practice of the office what was likely to be the demand upon the assignments which might be claimed and a list of what was presented to you, and regulate your practice accordingly.

A. I did.

Q. Did you continue in your office liable to be called upon by any sub-accountant to whom you had not issued a sufficient sum in the morning till the hour at which the time of payment ceased in the Navy Pay-Office?

A. I either remained myself or left some person authorised to carry on that part of my duty.

Q. Did you after Mr. Bathurst had directed the removal of money from Coutts's to the Bank continue to regulate your practice and mode of payment by the same practice?

A. It does not strike me that there was any considerable deviation, excepting granting a fuller sum in the morning, than perhaps I should have done if the account had remained at Mr. Coutts's where I could have had recourse to a second supply more easily.

Q. Could you not have had recourse to a second supply by drawing upon the Bank as much as if the money had been at Mr. Coutts's?

A. I could not.

Q. For

Q. For what reason.

A. From the distance between the Bank and the Pay-Office.

Q. Did any interruption or hindrance take place to the business of the office, after the money had been carried back from Messrs. Coutts's to the Bank?

A. I foresaw that a hindrance might occur, and took care to obviate it, by granting the balances fuller than I might have done at Messrs. Coutts's.

Q. Was any payee ever delayed for a moment by the money being at the Bank?

A. I do not recollect any instance of it.

Q. After the money was restored to the Bank by the direction of Mr. Bathurst, were the drafts upon the Bank drawn by you in the same form during Mr. Bathurst's Treasurership? Were the drafts upon the Bank precisely in the form those drafts had been by which you drew money out of the Bank of England and placed it at Messrs. Coutts's?

A. I believe they were.

Mr. Whitbread. "I shall now my Lord proceed to the 7000l. reduced annuities."

Q. Now, with regard to the 7000l. three per cent reduced stock, you stated that you had received a sum of 4000l. on account of Lord Melville, and to his credit, which you thought proper, without directions from Lord Melville, to invest in stock for Lord Melville's interest. At the time you received that 4000l. on Lord Melville's account, with which you purchased 7000l. three per cent. Reduced Annuities for Lord Melville's benefit, what was the state of Lord Melville's chest account? on which side was the balance?

A. I do not know that I ever specified that I had received a sum of 4000l. under such circumstances.

Q. You stated yesterday, upon your cross-examination, that when you purchased 7000l. three per cent Reduced Annuities, for Lord Melville's benefit, that that was an occasion upon which you received 4000l. upon Lord Melville's account either from Scotland or elsewhere; now, it is wished to know whether at the time you so took upon yourself to purchase stock for Lord Melville's benefit, the chest account in the first instance was or was not in favour of Lord Melville?

A. Would your Lordship wish me to answer that question before I have ascertained whether I made that answer?

The questions of the learned counsel on that subject were read by Mr. Whitbread.

Q. You stated I think that you directed stock to the amount of 7000l. three per cents to be purchased for Lord Melville; was that purchase made by any direction from Lord Melville?

A. It was made without any directions from his Lordship.

Q. How came that purchase to be made without any directions from Lord Melville?

A. I made it in the general management of Lord Melville's affairs. I believe a sum of money had come into my hand at that time for his Lordship, and I thought it was proper to invest it in some manner to produce an interest to his Lordship.

Q. Is

Q. Is it to be understood that funds had come into your hands which before that time had been carrying a productive interest to Lord Melville?

A. I believe they had previously or a few days afterwards; one of the payments was I think upon a bill which was not due upon the day I made the purchase, but I believe the bill had come into my hands previous to my making the purchase.

Q. Now, it is wished to ask, at the time these valuable effects of Lord Melville's came into your hands, in what state did the two accounts between yourself and Lord Melville stand? and it is wished first to point your attention to the chest account, which you, in every instance, have tated to be against Lord Melville?

A. I hope your Lordships will excuse me in reverting to what I said before, that I do not find the sum of 4000l. was specified.

Q. Was it not 4000l. from Mr. Cameron?

A. I do not recollect the circumstance.

Q. When any sum of money which you designated in the way you did yesterday came into your hands, with which sum, unspecified as to the amount, a certain sum of stock was purchased, was Lord Melville's chest account in his favor or against him?

A. I believe the balance of the chest account at that time stood against his Lordship.

Q. Did the account current generally, or usually, or for the most part, during the time it was open, stand against Lord Melville?

A. It did; but I do not know whether it did at that time or not.

Q. You stated yourself yesterday to have been at times holder of Navy Bills, during the time you were Pay-master of the Navy; I am now referring to the security of the public money in your hands: were you at any time during the period you were paymaster of the Navy a holder of a certain quantity of Navy Bills?

A. I have held Navy bills during the time I was Paymaster.

Q. Do you recollect that you were holder of a certain quantity of Navy Bills at the time when they fell to a discount?

A. I believe I held Navy Bills at the time they came to a discount.

Q. Did you borrow a sum of money for the purpose of making official payment at the time that Navy Bills were so at a discount that you might keep those bills unsold?

A. As I conceived it to be immaterial, whether I paid the public drafts by money taken out of one pocket or taken out of another, I certainly borrowed money at the time that I found I could not sell my Navy Bills without a loss.

Q. Did that fact take place that you made that Loan?

A. I have reason to think it did, although I do not directly recollect it.

Q. Had the sub-accountants of the Navy Pay-Office accounts at Messrs. Coutts's at the same time that you had your account as Paymaster of the Navy?

A. They had.

Q. Was it with your approbation, that they had such accounts?

A. It was.

Q. Was it also by your recommendation, that they had those accounts?

A. I believe in most instances it was.

Q. Was it your direction, or solicitation that they had those accounts?

A. I beg to make a distinction between direction and solicitation.

Q. By your solicitation?

A. I very probably might solicit it, but not in very humble terms, I mean to say I did not insist upon it.

Q. Did any one of them express a reluctance to transfer his account, or any part of it from the Bank of England to the house of Messrs. Coutts's?

A. I do not recollect that they did? Mr. George Swaffield has told me that he did, but I do not recollect it.

Q. You stated, yesterday, upon the cross-examination of the learned counsel, that when the million of money was placed in the hands of Messrs. Coutts, that it was for the purpose of accommodating the payees at the west end of the town; when the million was placed at Messrs. Coutts's for that purpose were the payments made by your own draft on Mr. Coutts on each individual payee, or did you issue the drafts to your sub-accountants as usual, and did the payees resort to them as usual for payment?

A. I stated that to be one of the objects that I had in view; but I carried on the payments in the same manner, I transferred a sum of 400,000l. in a few days to one accountant, and 400,000l. to another to their accounts at Mr. Coutts's, and they paid the payees of the bills by their own drafts upon their own accounts at Mr. Coutts's.

Q. Was there any difference as to those specific sums, or was it not carried on in the same manner as the other accounts between you and the sub-accountants?

A. It do not know any other difference, excepting in the great hurry which took place which always rendered more arrangement necessary.

Q. Did that arrangement supersede the ordinary routine of the office with the sub-accountants?

A. It did not, and I do not know that the ordinary routine was interrupted at that time.

Q. When Mr. Bathurst gave directions to you, as Paymaster, to remove the cash from Mr. Coutts to the bank, did you remonstrate upon the subject?

A. I never made any objection to Mr. Bathurst's orders, but I certainly took the liberty to argue upon the subject.

Q. Did your arguments prevail with Mr. Bathurst?

A. They did not.

Q. Had you ever any discussion of the same sort with Lord Melville as that which you had with Mr. Bathurst?

A. I do not recollect ever having had any such discussion.

Q. Having been asked in your examinations in chief, as to names, in your accounts in Henry Dundas, Mr. Dundas, and the right Honorable Henry Dundas, whether they all applied to the same person; and, being cross examined by the learned counsel on the other side, as to a certain specific sum of 1764l. you stated that that sum was transferred from one of your accounts to the other, and that it was entered twice; when you spoke to a sum paid to Henry Dundas of 1764l. 18s. 10d. and mention a transfer of that sum from one account to another, and call it a double entry, do you mean that the figures were entered twice over on two accounts, or that Henry Dundas was debited for twice the amount of the sum for which he was debtor?

A. I do not mean to state that I believe he was debited once in each of the accounts.

Q. Do

Q. Do you mean that he was charged 1763l. more by you than he ought to have been charged?

A. I find from looking into Mr. Coutts's books, the sum mentioned by the honourable manager charged in my general account with Mr. Coutts in two different sums; one of 1000l. the other making up 1764l.; and I find, in what I call a separate account, a sum charged to Mr. Dundas; I find that charged to the credit of the other accounts, by which I rectified the debit, which was wrong made in the first account.

Q. Do you mean that you are now debtor in 1764l. to Lord Melville, more than you thought you were when you signed the release?

A. I do not mean to say so, I mean to explain that I debited Lord Melville in a sum of 1000l. and in a second the sum of 700l. and odd. I drew a draft payable to his lordship for those two sums upon my account, at Mr. Coutts's, which I call my own account. I afterwards wished to make that debit appear in the separate account only, for which purpose I drew another draft, payable to Mr. Dundas, for 1700l. and odd, to rectify the mistake I had made in the first account, as no sum appears to the credit of the first account under his name.

Q. Then notwithstanding this double entry, the accounts were such as you presented them, right and correct at last?

A. The accounts were so, but I apprehend the question led to shew whether all the sums that were charged, or appeared to be charged to Mr. Dundas, actually went to his credit.

Q. But were the accounts at last correct and right?

A. They are correct in substance, although there appears a greater sum issued to Mr. Dundas than was issued to him.

Q. Are they correct in substance?

A. They are, I believe all my accounts are so.

Q. When a draft was drawn upon the house of Mr. Coutts, the produce of which was to be paid into the public cash at the Bank, was not there always a distinguishing mark, such as A P, act of parliament account, or some other, by which you could distinguish on referring to your account, that such draft was made for a public purpose?

A. I do not know of any such marks.

Q. You were cross-examined by the learned counsel yesterday, as to a particular mark upon one of your drafts of A P, or something of that sort?

A. One of the accounts of the Treasurer of the Navy is designated act of parliament account; and when I drew a check, payable upon that account, I would say payable to act of parliament account, but it does not follow that I applied it to a payment on account of the account, though I gave it that name.

Q. Was that draft so drawn by you from Mr. Dundas's act of parliament account, specified upon it, money which you meant to apply to your own private emolument?

A. It was not; every particular sum that is drawn there is attended with particular circumstances, and I can give no general answer that that question.

Q. The learned counsel yesterday cross-examined, as to the accounts being kept up by the Ex-Treasurer of the Navy, and so forth; whether to your knowledge, you knew there was, during the treasurership of Lord Melville, an accountant's branch established in the Navy Pay Office?

A. I do.

Q. Was

Q. Was that done during the treasurership of Lord Melville?

A. It was.

Q. Did that branch continue its functions uninterrupted from the moment of its appointment?

A. I believe it did, until it was found necessary to remove a great number of clerks belonging to that branch to a different branch of the office, to carry on the current business of the office, which was greatly augmented when the war began.

Q. When did the interruption to this branch of the accountant's business take place?

A. Many years ago, but I cannot recollect the precise time.

Q. Do you recollect how long it went on in the due execution of its office?

A. I do not precisely recollect, but I suppose several years.

Q. Do you recollect when it was first discontinued?

A. It has been discontinued many years, but there was an absolute necessity for discontinuing it. It was done after two several conversations with the Navy Board, and was not a suggestion of mine, or of the Treasurer.

Q. Was it first discontinued on account of any suggestion to the Navy Board, or in consequence of any conversations with the officers of that Board.

A. As far as I recollect the circumstance, it was discontinued from the Navy Board's withdrawing several of their clerks, who were necessarily employed in the same business; and when they were withdrawn it became necessary for the Treasurer also to withdraw his, as they were proceeding on a business which required their joint attendance.

Q. Whether the increase of business in the pay office was the reason why those clerks were withdrawn; or whether it was because the business of the Navy Board was not able to keep pace with the business of the Navy Pay Office?

A. They both occurred at the same time, because it was to send clerks down to the out-ports, which it was necessary to send from both offices; I found it was necessary at last to direct the accountant to take upon himself a duty out of town as he could not be employed I thought with equal advantage upon the Treasurer's account in town.

Q. Whether to your knowledge there existed in the Bank of England at the time Lord Melville quitted the Navy Pay Office, a balance upon his lordship's first Ex-Treasurership's account?

A. Yes, I believe so, I know so.

Q. Do you recollect whereabouts the amount of that balance was?

A. The account was nearly closed, and, as far as I can recollect, the balance exceeded 5000l. by a few hundreds.

Q. Do you know what became of that balance upon Lord Melville's quitting the office?

A. I believe Lord Melville drew out that balance.

Q. What did he do with it when he had drawn it out?

A. He paid it to me; it was a balance upon the Ex-treasurership, and I understood at that time, all Ex-treasurers had a right to withdraw the money from the Bank, or do with it as they pleased till the accounts were finally settled.

Q. Did Lord Melville pay it to you?

A. He did.

Q. What did you do with it when Lord Melville had paid it to you?

A. I first carried it to the credit of the account current, and then I paid it into the Bank.

Q. Was not 20,452l. 4s. 5d. paid, or thereabouts?

The Lord Chancellor. "It does not appear to me possible he can be prepared to answer so minutely."

Q. Into what account at the Bank did you pay it, after you had carried it to your account current?

A. I paid it into the Bank on account of balances which I had out of the Bank at that time upon the current account of the Navy.

Q. You have stated, upon cross examination, with regard to the last balances that were paid by Lord Melville, that there were balances due by Lord Melville upon the account current; were the balances actually due by Lord Melville to you upon the account current, and the balances due upon the chest account, paid to you by Lord Melville?

A. I believe the whole of them were paid to me.

Q. Could you specify at all, in what manner they were paid to you?

A. I have considered the subject very much lately, and from that consideration I am enabled to speak.

Q. In what manner were those balances paid by Lord Melville to you?

A. Having the power of selling the whole of his Lordship's stocks, I directed them to be sold, and they accordingly were either sold, or else the price of the day was allowed to me, and paid into the credit, I believe, of Lord Melville's account, at Mr. Coutts's. They were paid into the credit, I believe, of Lord Melville's account at Mr. Coutts's. If I had documents to speak from, I could make an accurate statement. If the honorable manager, who is perfectly acquainted with the circumstances, will ask me upon each individual sum, I shall perhaps be able to state.

Q. Do you recollect so far, as that a sum of 20,000l. was paid into your hands on account of Lord Melville by Mr. Sprott.

A. It was paid either into my hands, or by Mr. Sprott, into the credit of Lord Melville's account at Mr. Coutts's.

Q. Was another sum of about 30,000l. paid into your hands on account of Lord Melville by Mr. Sprott?

A. I do not think the honorable manager has stated it perfectly correct; that money was paid into the credit of my account at Mr. Coutts's, being the produce of the sale of East India stock which I mentioned yesterday, by which a debt was paid off which existed upon that stock of 20,000l., the surplus of it went to the credit of Lord Melville's account current with me.

Q. What became of it after it passed through the account current with you?

A. I always paid that money into the Bank in liquidation of balances I had out of the Bank.

Q. Did you receive, or do you know that Lord Melville paid an additional sum of 13,000l. in liquidation of balances at the Bank?

A. That sum formed part of a greater sum which Lord Melville gave me to pay into the Bank on his account; the other part of that sum has already been mentioned; 19,000l. of the 20,000l., or thereabouts, which was mentioned before; that formed the whole of the sum I think that I received of Lord Melville to pay into the Bank.

Q. Is

Q. Is it to be understood, that you mean to state, that that part of the balance which was made good by Lord Melville, was made good in the following manner; 20,000l., or thereabouts, from Sprott; 30,000l., or thereabouts, also from Sprott; of which went, in liquidation of the debt due for the the East India stock mentioned yesterday, and the balance paid into the Bank account after having passed through the account current; and the sum of 13,000l., or thereabouts, which was advanced in some other way; added to which, is the Ex-treasurership account of 5,000l. and upwards?

A. I believe the honorable manager has stated them correctly as far as I can follow him.

Q. The learned counsel cross examined the witness yesterday as to all the receipts of the witness, on account of Lord Melville, from various sources, and remittances from Scotland and elsewhere, when you spoke of the balances due by Lord Melville upon his accounts, do you mean to say, that before those balances were struck, all those remittances of every description were always carried to his credit. Did you in fact always give Lord Melville credit for every thing you received on his account when you summed up the accounts?

A. I gave Lord Melville credit in one or other of his accounts for all the sums he paid into my hands.

Q. That came into your hands in any way?

A. I did as far as I recollect.

Q. Do you know any one instance where you did not credit Lord Melville, as an honest man ought to do, for the money you received on his account?

A. His Lordship was most undoubtedly credited; but if a sum of money had been paid into my hands with directions to pay to himself again, those are the exceptions.

Q. Those sums you have last specified never came, I suppose, into the account at all?

A. If such a circumstance ever existed, but I do not recollect that it ever did.

Q. You stated yesterday, about a loan from the house of Mansfield, Ramsay, and Co. that had been advanced to Lord Melville, and a payment which was made by your direction, after having refreshed your memory by a written document in your own hand-writing of the date at the time when it was made, asked whether you made such payment without any direction given by Lord Melville at all?

A. I stated yesterday that I had lost all recollection of the transaction whatever, but I can certainly state that I could not have made it without Lord Melville's directions.

Q. You have stated upon your cross-examination that Lord Melville never directed payments to be made out of the public monies specifically, whether, when you received certain modes of direction, such as you have stated this morning, Lord Melville did not in fact know that those payments were made, and meant they should in fact be made out of the public money?

Mr. Plomer objected to the question.

Mr. Whitbread. Q. The question asked by the learned counsel was, whether upon that occasion, or upon any other, Lord Melville ever directed you to lay out any part of the public money in your hands for the use and benefit of Lord Melville; to

which the answer was, you never did under the specific name of public money, or any money bearing that description; whether you received any directions, in any way from Lord Melville, which led you to know, that Lord Melville meant the public money; that Lord Melville knew that it was public money which was to be so paid?

A. I cannot swear so.

Q. It is asked as to the chest account?

A. I certainly cannot swear so.

Q. Do you believe that Lord Melville knew that to be public money?

Mr. Plomer objected to the question.

Q. Did you receive such directions from Lord Melville as you have specified, which directions led you to debit Lord Melville on the chest account, and do you know that Lord Melville meant those directions to be for public money?

A. I did not know it.

Q. Did you always use public money when such order was given?

A. I request the order to be more particularly described before I can answer the question.

Q. That sort of order which you described in the early part of your examination to day, to be more in the nature of a requisition, than a request, which induced you to debit him in the chest account; did you always consider such a request as an authority for using the public money?

A. I have already said, that I have placed them to the debit of that account.

Q. Did you, in that case, always debit it to the chest account?

A. I have already stated, that that was the distinction I made, and I always did it of course.

Q. Did Lord Melville ever make any enquiry of you, after the indignant refusal which he had given to the proposition made by you to him to employ a certain sum of money in the purchase of East India Stock, upon which you were cross-examined yesterday; did Lord Melville, when he either requested or required money to be advanced to him by you, did he ever ask you, in any one instance, whether your own private funds would supply that source?

A. I do not recollect that his Lordship ever did. As to enquiring into the particular state of my own private funds, I do not think Lord Melville ever did.

Q. Did he ever make any enquiry of you, whether in making such advances, you were trenching upon the public balances?

A. He never did.

Q. You stated, that the chest account was regularly delivered to Lord Melville?

A. It was at different periods, but not so frequently as I delivered the account current.

Q. Were any objections ever made by Lord Melville upon your delivering the chest account to him?

A. Lord Melville never examined my accounts in my presence so minutely, as to enable him to make objections.

Q. Did he ever in fact object to them?

A. He never did.

Q. Do

Q. Do you know any instance in which Lord Melville did not sign the chest account after you, from time to time, had delivered that account to him?

A. I do not recollect any instance in which his Lordship refused to sign the accounts.

Q. Whether the duplicates of the account presented by you to Lord Melville were left with his Lordship?

A. They were.

Q. Of both the Chest Account and the Account Current?

A. They were.

Q. Whether it is not in evidence, that the money with which the Loyalty Loan was purchased, was transferred from the Current Account to the Chest Account?

A. The money which I advanced upon the Loyalty Loan was.

Q. There was some cross examination as to the dividends of the East India Stock, whether the excess of the interest above the dividends was not charged to the debit of Lord Melville's account?

A. Yes.

Q. Are you correct, as nearly as you can recollect, in stating, that the sum advanced for the purchase of the whole of that East India Stock advanced at different times, was, to the best of your recollection, 23,000l. or thereabouts?

A. It was, to the best of my recollection.

Q. What is the interest at five per cent of 23,000l.?

A. 1,150l.

Q. What was the dividend upon the India Stock at the time those purchases were made, whether it was not eight per cent?

A. Eight per cent.

Q. Calculating upon India Stock, what does the dividend at eight per cent, amount to?

A. To the best of my recollection, that stock was only 13,500l.

Q. Calculate upon a given sum of 14,500l. what would it be?

A. 1,160l. I believe.

Q. Then supposing it was 14,500l. there was no excess of interest above the dividend at that time; whether the dividend during the time it was in the possession of Lord Melville, was not advanced from eight per cent to ten and a half per cent?

A. It was advanced to ten and a half per cent, but that was several years afterwards.

Q. What would the dividend amount to annually upon 14,000l. India Stock at ten guineas per cent?

A. I believe 1,524l. 10s.

Q. It was stated, upon your cross examination with regard to the salary of Lord Melville, that it had been brought to your recollection that there were one or two instances, in which you had not received the salary of Lord Melville; but that Mr. Wilson had done so; when that salary was so received by Mr. Wilson, was it as agent to you, or as agent to Lord Melville?

A. I believe he received it as agent to myself, as it was placed I believe in most instances if not in all, to the credit of my account, at Mr. Coutts's in the first instance; and afterwards transferred to the credit of Lord Melville's account current with me.

Q. A good many questions were asked upon cross-examination, with regard to a power of attorney given by Lord Melville to sell and transfer

stock,

s
tock, and receive the dividends; it is wished to know whether this power of attorney for the sale and transfer of stock, and receipt of dividends, was in the usual and common form of such powers of attorney?

A. I know nothing to the contrary; but do not know that I ever saw any; I fancy it was taken by my banker, but I do not know; I certainly never read it.

Q. Do you recollect an advance of money for the India Stock, for Messrs. Coutts, when your account was so low, that you were obliged to draw from the Bank a particular sum for the purpose?

Mr. Plomer objected.

Mr. Whitbread waved the question.

Q. As you were a good deal cross-examined with regard to the state of the balances, in and out of the Bank, whether by any information upon which you can depend, or any recollection that you have, or in any way, you can state to the court what the difference between the Bank account and the office was at any time, or times, you were Paymaster of the Navy under Lord Melville?

A. I cannot state it from memory.

Q. Could you, by consulting any document, swear to that fact?

A. I have documents in the hands of the honourable managers, by which I think I can ascertain it.

Q. I wish those books and documents, to which the witness refers, to be put before him?

Lord Chancellor. "What are those documents, by which, if you refer to them, you shall be able to give that answer?"

A. They are books which I kept as checks upon the public accounts, but no part of the public accounts; I believe they are called balance books.

Mr. Whitbread. Q. Was this book lying before you, and were the others, to which you have referred, kept by yourself when you were Paymaster?

A. The greatest part does appear to be kept by myself.

Q. Is any part of that book in your own hand writing?

A. It is.

Q. How long did you continue to write in those books?

A. I cannot state that with any accuracy, but I have written very little in them for many years, having been deprived of the use of my hand, from which I cannot write.

Q. When you ceased to be able to write yourself, who kept the books for you?

A. Principally Mr. Thomas Wilson of the Pay Office.

Q. Have you examined these books so written by Mr. Wilson?

A. I have bestowed upon them all that examination which I have thought necessary.

Q. From those books can you speak to the account?

A. It depends upon the questions that may be asked me from these books.

Q. The question is to a particular period, the 31st August, 1786. What was the out-standing difference at that time in the Navy Pay office? do you know what, on the 31st August, 1786, was the difference between the office balance, or that with which the Treasurer was charged and the Bank balance?

Lord

Lord Chancellor. Q. Is that a public, official book, that stands before you?

A. No, it is my own private book, which I kept as a check upon the office.

Mr. Whitbread. Q. Can you speak from your own knowledge, whether on the 31st of August, 1786, there was a difference of 56,000l. between the Office balance and the Bank balance?

A. I cannot state it from this book. I must have also the concurrent testimony of books kept by the Bank?

Q. This book we can prove by the Bank clerk that is here, to be one of the banking books of Lord Melville.

A. I can speak with more positive knowledge farther on.

Q. It was asked as to the 31st of December, 1787, whether you know that the difference at that time was 53,100l.?

A. I have already stated, that I must have the concurrent testimony of the Bank books, and I wish to give a little explanation of this account before I speak upon it, if I have your Lordships' permission. The Treasurer's balance, which was returned at the end of this month as well as all other months, consists of balances in three different branches of the office; each of those branches are subdivided, part of the balance in each branch is in the hands of the Treasurer and his Paymaster, for the purpose of issuing farther sums to the sub-accountants, for the purpose of carrying on the public payments, and the other parts of it have already been issued to the sub-accountants for the purpose of carrying on the public payments; that applies to that part which remains in the Treasurer's hands for the purpose I have described of the three branches collectively.

Q. It is asked as to the aggregate of what ought to be in the hands of the sub-accountants and Treasurer, and then state what is the difference between that and the money in the Bank?

A. The honorable manager wishes me to state that part of the balance which the first clerk of each branch calculates by finding out the balance of the sub-accountants, and what ought to be in the hands of the Treasurer. That may be accurate or not accurate, and the balance he states to be in the Treasurer's hand, may be stated without his knowing it to be so.

Q. State the difference between that which is neither in the sub-accountants' hand, nor in the Bank, but in yours?

A. On the 31st December, 1787, if the sub-accountants were right in making up their balance, there was a difference of 53,100l. between the sum which the first clerk said ought to be in the Treasurer's hands, and the sum which was in the Bank.

Q. Now refer to the 31st of May, 1788?

A. Will your Lordships allow me to speak from this account in my hand instead of the book?

Q. What is that paper?

A. An account I have collected from an examination of the books, and the Bank books.

Mr. Whitbread. Q. Do you know that upon the 31st of May, 1788, there was a difference in the way I stated before of 61,600l?

A. There appears to be such a difference.

Q. Is that subject to the same explanation that you made of the former entry?

A. It is,

Mr.

Mr. Whitbread. Q. Refer to May 31st, 1790, was there not then a different subject to the same explanation of 64,800l.?

A. The statement is accurate.

Q. Refer to the 31st of March, 1793, whether there was not a balance of 102,388l. 9s. 8d.?

A. There appears to be that difference.

Q. Refer to the 31st of October, 1793, whether there was not the sum then of 115,000l. difference, subject to the same explanation?

A. There appears to have been that difference existing at that time.

Q. Refer to the 30th of April, 1794, was there not then 161,425l. 17s. 9d.

A. That appears also to be correct?

Q. Refer to 28th February, 1794, was there not a balance of 209,875l. 17s. 9d.?

A. There was.

Q. Refer to the 30th of April, 1795, was the balance then 310,325l. 17s. 7d.?

A. The account which I hold in my hand differs twopence.

Q. It is 17s. 9d.?

A. That is right.

Q. Refer to the 31st of March, 1796, was not the balance 194,500l.?

A. That appears to be correct.

Q. On the 29th of February of the same year, was it not 216,841l. 14s. 2d.?

A. That also appears to be correctly taken from these books.

Q. On the 30th of June, 1797, was it not 281,759l. 5s. 5d.?

A. That appears to be correct.

Q. On the 30th of September, 1798, was it 222,500l.?

A. That appears to be correctly taken.

Q. On the 30th of November, 1799, was it 223,000l. 0s. 2½d.?

A. That appears to be correctly taken also.

Q. On the 30th of April, 1800, the month preceding Lord Melville's quitting the Navy Pay Office, was there not the sum of 344,500l.?

A. There appears to be that difference between the books.

Q. It is wished to recal your attention to the 30th of December, 1790; was not the balance then struck, and no difference appeared?

A. The balance was struck, and no difference appeared; but some explanation may be necessary upon that.

Lord Chancellor. Q. Give that explanation.

A. That this balance may not accurately have been paid up, in the Bank books I have taken in the balance the drafts I may have drawn upon the Bank, and which might not have been presented; I do not know whether there were any such, but if there were they were taken into my balance.

Mr. Whitbread. "My Lords, I beg leave to say I can prove the balances every month down to 1800, and indeed larger balances than these balances, but I only take this mode of ascertaining things, as most convenient. I am not aware that I can add any thing to the re-examination, I do not think I have asked a single question which does not refer to the former cross-examination, if I have, the learned counsel will point out where it is.

Mr. Plomer submitted, that he was entitled to re-examine the witness upon any new matter which had been examined to, and

stated he meant to confine himself merely to explain the matter enquired into, respecting money that was drawn by the noble defendant by requisitions, which were immediately carried to the chest account.

Mr. Whitbread stated, that having founded that enquiry upon the cross-examination of the witness, and having asserted the right of the Commons to refuse the examination of the counsel, the Commons relinquished that right at that time in order that there might not appear the least wish on their part to keep back any thing that the learned counsel should get out of the witness in favour of Lord Melville.

Mr. Plomer. Q. Whether the sums stated to be drawn and carried to the chest account of Lord Melville, were in the whole, or in part, applied to the use of Lord Melville, or had he any benefit or emolument from them?

A. I am totally ignorant of the application of them, excepting in the case of 40,000l. which had been advanced to Boyd and Benfield, and which I only learned from what has passed in public.

Q. Is that 40,000l. comprehended within the head just mentioned, of money drawn by requisitions and carried immediately to the chest acount?

A. It was, and may serve to shew the nature of the requisitions that were made, from that sum of money having been made more the subject of public discussion than any of the other sums which have been advanced to his Lordship.

Q. Whether any part of the sums that you employed to purchase stock, or in any other way for the benefit of Lord Melville, stood in the same predicament of being immediately carried to the chest account?

A. Not any of them.

Q. You have stated that a book of yours which you referred to, a private book of yours, was in the possession of the managers; how long has that private book been in possession of the managers?

A. Ever since the day in which I had the misfortune to meet with the displeasure of the other House: I do not recollect the date.

Mr. Whitbread. Q. Whether you have any knowledge of your own with the exception of that posterior knowledge you have gained, with regard to the application of the 40,000l. do you know any thing of the application of other sums?

A. I have no knowledge whatever of the application of them.

Q. Are we correct in supposing that the Loyalty Loan money was transferred from the account current to the chest account?

A. It was.

Q. Whether Lord Melville was not credited for the dividends upon the Loyalty Loan up to the period at which that loan was sold?

A. I believe he was.

The witness then underwent a long examination by Lords Stanhope, Suffolk, Eldon, Mulgrave, Lauderdale, Carlton, Auckland, Radnor, Caernarvon, Buckinghamshire, Bishop of St. Asaph, and others.

Mr. Whitbread. "The Commons now propose to bring be-

fore the court the Order of Council directed to the Navy Pay-Office?

Sir Stephen Cotterel was sworn, and examined by Mr. Whitbread.

Q. What is the book before you?

A. A volume of the council Registers.

Q. Is there in that book an order, dated the 9th of August 1786, purporting to be for the regulation of the Navy Pay Office?

A. There is.

Q. Have you the memorial upon which that order in council was founded?

A. I have.

The counsel for Viscount Melville admitted the signature of his Lordship to the said memorial.

The same was read from the register of the Privy Council as follows:

"THE MEMORIAL OF HENRY DUNDAS

"*To the King's Most Excellent Majesty in Council,*

"Most humbly sheweth,

"That the office which he hath the honour to hold, as Treasurer of your Majesty's Navy, was settled by an order of King William in council, the 25th day of May 1699, since which time the business of the same has been greatly augmented, and many additions made to the establishment. It has been regulated by a late act of parliament founded upon the reports of the commissioners of accounts, and the mode of conducting it altered in various particulars. Your memorialist is satisfied that these regulations will be attended with the most beneficial consequences. With this view, his duty to your Majesty and to the public has actuated him to give an attentive consideration to the whole conduct and establishment of the office; and in full persuasion of being able to execute the business of it in a manner consistent with the late regulations, he most humbly presumes to submit to your Majesty's approbation an arrangement of the whole, calculated upon principles of real œconomy, and formed upon a system to expedite with dispatch the various branches of the department entrusted to his charge.

"HENRY DUNDAS."

The arrangement was then stated, but being similar to the subsequent paper, entitled Establishment of the Navy Pay Office, we have not inserted it.

The clerk of the court read the order in council, founded upon this memorial, in the following terms:

"*At*

" *At the Court at St. James's the 9th of August*, 1786.

" PRESENT,

" The King's Most Excellent Majesty,

" Duke of Richmond	" Viscount Hinchinbroke
" Marquis of Carmarthen	" Viscount Galway
" Earl of Salisbury	" Lord Sydney
" Earl of Leicester	" Mr. Pitt

" Whereas the Right Honorable Henry Dundas, Treasurer of " his Majesty's Navy, hath represented to his Majesty at this " board, that since the office of Treasurer of his Majesty's Navy " was settled by the order made in council by King William the " Third, bearing date the 25th of May, 1699, the business of the " said office has been greatly augmented, and many additions " made to this establishment. That the office of Treasurer of his " Majesty's Navy has been regulated by a late act of parliament, " founded upon the reports of the commissioners of accounts, and " the mode of conducting the said office altered in various par- " ticulars. And whereas the said treasurer of his Majesty's Navy " has, after an attentive consideration to the whole conduct and " establishment of the office submitted for his Majesty's appro- " bation, an arrangement of the whole calculated upon the prin- " ciples of real œconomy, and consistent with the regulations " made by parliament as above, which is as follows:

Establishment of the Navy Pay Office.

	L.			L.	s.	d.
Paymaster to the Navy				500	-	-
Pay Branch.						
Deputy paymaster	400	-	-			
Chief clerk for payment of wages at Plymouth	230	-	-			
Ditto Portsmouth	230	-	-			
Ditto Chatham	230	-	-			
Second ditto Plymouth	200	-	-			
Ditto Portsmouth	200	-	-			
Ditto Chatham	200	-	-			
First clerk for payment of seamen's wages in town	200	-	-			
Second ditto ditto	180	-	-			
First clerk for making up ships' books	180	-	-			
Second ditto ditto	162	3	-			
First assistant clerks for paying wages, &c.	90	-	-			
Second ditto ditto	90	-	-			
Third ditto ditto	90	-	-			
Fourth ditto ditto	80	-	-			
Fifth ditto ditto	80	-	-			
Sixth ditto ditto	70	-	-			
Seventh ditto ditto	70	-	-			
				2,982	3	-

	L.	s.	d.	L.	s.	d.
Navy Branch.						
Cashier of the Navy attending payment of bills	400	-	-			
Chief clerk to ditto	250	-	-			
Ledger writer for the navy branch	200	-	-			
First ledger copier	162	3	-			
Second ditto	90	-	-			
Assistant to the cashier for paying bills	80	-	-			
Ditto to the chief clerk for attending Exchequer	80	-	-			
				1,262	3	-
Victualling Branch.						
Cashier of victualling for attending payment of bills	400	-	-			
Chief clerk for ditto	230	-	-			
Ledger writer	200	-	-			
First ledger copier	162	3	-			
Second ditto	90	-	-			
Asssistant to the cashier for paying bills	80	-	-			
				1,162	3	-
Accountant's Branch.			-			
Accountant for bringing up the old and keeping up the new accounts	400	-	-			
Chief clerk for ditto	250	-	-			
Second ditto for ditto	162	3	-			
Third ditto for ditto	162	3	-			
Fourth ditto for ditto	90	-	-			
Fifth ditto for ditto	90	-	-			
Sixth ditto for ditto	80	-	-			
Seventh ditto for ditto	80	-	-			
Eighth ditto for ditto	70	-	-			
				1,384	6	-
Inspector's Branch.						
Inspector's of seamen's wills and powers of attorney	300	-	-			
Assistant to ditto	150	-	-			
Messenger	75	-	-			
				525	-	-

The seven clerks at 90l. per annum to be allowed also twenty shillings a week for every week they shall actually attend; the seven at 80l. to be allowed fifteen shillings per week; and the three at 70l. to be allowed ten shillings in the same manner; the weeks which they shall actually attend to be certified to the navy board by the paymaster, who are to make out bills for the same under the head of additional salaries. All travelling and other incidental expences arising in the office, to be paid out of monies imprested

into

	L.	s.	d.	L.	s.	d.
into the Treasurer's hands, under the head of money to pay contingencies upon orders from the paymaster or chief clerk of each branch, to the officer who pays the same; and the paymaster is to examine the said contingent account with the said orders, which finding right, he shall certify the amount to the commissioners of the Navy, who are upon such authority to allow the same. All fees whatever to be discontinued excepting that of the odd pence deducted from sums paid, and no further gratuities are hereafter to be allowed for bringing up the accounts of the Ex-Treasurer.						
Conductors.						
Chief conductor, money sorter, and officer for paying contingencies	200	-	-			
Money conductor at Portsmouth	150	-	-			
Ditto ..... Plymouth	150	-	-			
Ditto ..... Chatham	150	-	-			
				650	-	-
House and Door Keeper, Messengers, &c.						
House keeper	40	-	-			
Keepers of ships books, money carrier, and door keeper to the pay room	140	-	-			
Messengers, five, at 75l. per annum	375	-	-			
Porter at the pay office in town	40	-	-			
Watchmen, two at 30l. each	60	-	-			
Bargemaster	80	-	-			
				663	-	-
				9,128	15	-

" His Majesty having taken the said representation, and the " proposed establishment of the Navy Pay Office, into his Royal " consideration, and having received the opinion of a committee " to his Majesty's Most Honorable Privy Council thereupon, is " pleased, with the advice of his Privy Council, to approve of the " said proposed establishment of the Navy Pay Office, and to or- " der, (as it is hereby ordered,) that the Right Honorable the " Lords Commissioners of his Majesty's Treasury, and the com- " missioners for executing the office of Lord High Admiral of " Great Britain, to give all the necessary directions for carrying the " same into effect.

" W. Fawkener."

Lord Lauderdale. " As Mr. Trotter may be fatigued with this long examination, I shall not now require he should again be called in to-day, but I give notice that I shall expect his attendance on the next day of our meeting."

Mr. Morris. "On the part of the managers I have to propose to call a witness to shew out of what fund certain monies that had been spoken of were paid. It will appear they were in fact paid out of monies in the hands of Mr. Trotter, and applied to the advantage of Lord Melville, as they operated to reduce sums he had over-drawn.

Mr. Robert Trotter was sworn and examined by Mr. Morris.

Q. Are you not a writer to the Signet, and brother to Alexander Trotter, the last witness?

A. I am.

Q. Did you in the year 1787 receive any directions from your brother, Alexander Trotter, to pay any money on account of the noble defendant, into the house of Sir William Forbes and Co. and Mansfield and Co.?

A. I did.

Q. Did you pay the sums into the hands of those persons, and what were the sums?

A. I did pay them.

Q. What were the sums?

A. I paid in to Messrs. Mansfield, Ramsay, and Co. 3,374l.

Q. What paper is that in your hand?

A. A letter from my brother to me?

The managers for the Commons stated that it was a letter which was in evidence yesterday, from which Mr. Alexander Trotter refreshed his memory.

The witness said,

A. And to Sir William Forbes 2000l.

Q. Are you speaking to the fact from your own recollection, or only because you see it in that letter?

A. I did not recollect the least of it till I looked into my books.

Q. Are those books by which you refreshed your memory, books of your own keeping?

A. They are books written by my own clerks.

Q. Are they not your own books?

A. Yes.

Q. Have you any doubt of the fact of having paid the sums?

Mr. Adam. Q. Whether these books are in his own hand writing?

A. No, in the hand writing of my clerk.

"My Lord, I submit that the witness cannot refresh his memory from these books."

The Lord Chancellor. Q. What is that paper?

A. An account between my brother and me, dated the 31st of December, 1787.

Q. Is that account signed by you?

A. It is.

Q. Does that account contain the sums in question?

A. I have no doubt but the fact is perfectly exact, because it was an account furnished by myself.

Q. Does

Q. Does that account enable you to say, that the sums were paid into these houses?

A. I have no doubt but they were.

Q. What were the sums?

A. 3,374l. to Messrs. Mansfield, Ramsay, and Co. and 2000l. to Sir William Forbes and Co.

Q. What is the date of these payments?

A. The 23d of July, 1787.

Q. Did you, in pursuance of the directions of that letter, transmit any receipts from those houses upon payment of those sums of money?

A. Yes, I sent them to my brother; when I say so, I speak from looking into my letter, and these accounts, because I have no recollection of the transactions myself.

Q. Are these accounts signed by yourself?

A. Yes.

Q. Do you recollect having made any other payments in 1789 to the same house on account of the noble defendant?

A. I did, at least I see so from my books.

Q. Is that account signed by you?

A. It is.

Q. Does that enable you to state, that you made these payments in 1789?

A. I have no doubt of it.

Q. What was the amount of those payments?

A. 2,000l. to Sir William Forbes and Co., and 3,000l. to Messrs. Mansfield and Co.

Q. What is the date of those payments?

A. 2000l. to Sir William Forbes and Co. was paid upon the 14th of July, 1789, and 3000l. upon the 17th of the same month and year.

Q. Did you also transmit receipts of those payments to your brother?

A. I did not believe I did at that time; but afterwards, upon settling accounts, the vouchers for those payments were delivered up; I see by the bottom here, that my brother acknowledges having received all the last account.

Cross-examined by Mr. Adam.

Q. Whether you have any recollection of these circumstances, except from the entries in your books, and the accounts you have seen?

A. I have not the least.

Q. Can you, from any collateral circumstances, bring to your recollection these payments?

By Mr. Morris. Q. Is the account to which you allude as refreshing your memory, the signed account to which you before alluded?

A. It is.

The witness was directed to withdraw.

Then Sir William Forbes being sworn, was examined by Mr. Morris.

Q. Are you a banker at Edinburgh?

A. I am.

Q. Did

Q. Did Lord Melville keep an account with you?

A. He did, and he does still.

Q. Was that account in 1787 against the noble defendant?

A. It was.

Q. Is it the practice of your house to charge with the payment of interest all sums overdrawn on account by any person keeping money with your house?

A. It is.

Q. From that being the general usage of the house, do you believe that that was the course with respect to Lord Melville?

A. It was.

Q. Were the accounts of Lord Melville with your house regularly transmitted to him?

A. Our general practice is, to transmit the accounts at the end of the year; and Lord Melville's accounts were sent. I will not positively say they were sent every year, sometimes they might be omitted; but in general our practice is always to send the accounts.

Q. Was any objection ever made by Lord Melville to the sum of 2,000l. being charged over and above the sum received?

A. Not that I ever knew of; and I believe he made none.

Q. Was any objection ever taken as to the second 1,000l. in 1789, as well as 2000l. in 1789?

A. No, not to my knowledge.

Cross examined by Mr. Adam.

Q. Whether all the letters of your correspondence which you had with Lord Melville have not been transmitted to the managers, and how long ago?

A. In July last we received a requisition from the Committee of the Impeachment to transmit copies of the letters, and copies of the accounts, that should relate to Lord Melville's accounts from the year 1784 to 1800, those copies were all sent up to the managers at that period. There are many other letters which did not relate to those accounts, which of course we did not take any notice of.

Q. Have all the letters which relate to the accounts on both sides, been transmitted?

A. I certainly believe that copies of them have.

Q. Either individually from you, or from your house?

A. Yes.

Q. Have all the accounts, or copies of all the accounts, between you and Lord Melville, during all the time his Lordship has dealt with your house, been transmitted to the managers?

A. Only during the period included in the requisition; from 1782 to 1800 they have all been transmitted.

Q. Were those likewise transmitted in the month of July last?

A. Not all: the first requisition of the honorable managers went from 1784 to 1800. We afterwards received a letter from Mr. Whitbread, wishing to have two years farther back, stating that the Committee had made a mistake. We wrote, that without a fresh order, we could not with propriety send them. When that order came, about a month ago, for us to send up the originals, we thought we could have no difficulty in sending up the copies of the two former years, and we did send them accordingly.

Q. Whether

Q. Whether from your books, or from your knowledge of the state of your account, it appears that Lord Melville stood indebted, or otherwise, to the house at that period?

A. Lord Melville has stood indebted to the house during the whole of that period.

Q. Has it been the custom of your house regularly to charge interest for that balance?

A. Constantly. I merely speak with the exception, in point of fact, of a trifling sum of money, 19l. 7s. which I see allowed to Lord Melville for money as in our hands; but I do not think that any exception scarcely to the general rule.

Q. Has money been advanced by you, during that period, to Lord Melville upon his bonds?

A. It has.

Q. Has his Lordship had money advanced to him upon the guarantee, and security of any friends since that time?

A. He has.

Q. Has he paid interest upon the loans?

A. Most certainly.

Q. Is it to be understood that his Lordship has paid interest during the whole period of those loans?

A. Yes, up to the 1st of January last; the interest is commonly paid once a year.

Q. Whether it is not customary for bankers in Scotland to allow interest upon money left in their hands by their customers?

A. It is.

Q. How much do they allow?

A. Upon a current account they allow three per cent. If it is lodged upon a note to lie six months, it is generally four per cent.

Q. Whether you have at different times yourself personally, and your house likewise, in their capacity of bankers, pressed Lord Melville for the payment of the sums of money that were due to you?

A. Never myself, but our house did write to Lord Melville, to say, they should be very glad, if it would be convenient for his lordship to reduce the balances, because they were at that time large.

Lord Lauderdale. Q. For what length of time have you been a banker in Scotland?

A. Ever since the year 1761.

Q. Has your contract of co-partnership frequently expired?

A. Several times.

Q. Upon those occasions is it the custom of your partners to execute mutual releases?

A. As our partnership has generally been continued under the same partners, sometimes with the exception of those who have died in the interval, and new ones have come in, as the same partners generally continued on the firm of the house, we seldom have been so scrupulous as to execute releases, except once, when a partner died, and left a minor son.

Q. Did that release contain a clause obliging the partners to destroy vouchers?

A. No, I do not believe it did.

The witness was ordered to withdraw.

Then Mr. James Mansfield was sworn, and examined by Mr. Morris.

Q. I wish you to state to the court, whether you are not a banker at Edinburgh?

A. I am.

Q. Had Lord Melville any account with you?

A. He had.

Q. Whether in the year 1787 Lord Melville was not indebted to your house?

A. He was.

Q. Was any payment made into your house on account of Lord Melville in the year 1787, and to what amount?

A. Upon the 23d of July.

Mr. Plomer. Q. Are those books in your own hand writing?

A. They are not.

Mr. Morris. Q. Have you any doubt of the fact of that payment having been made?

A. None.

Lord Chancellor. Q. By what means are you satisfied of the fact?

A. From referring to our cash book.

Mr. Morris. Q. Has any account been delivered to Lord Melville, or the agents of Lord Melville, of the state of his accounts with your house?

A. There have been several delivered to his agents.

Q. Was any objection then taken to the accuracy of that account?

A. None.

Q. Can you state the amount of the sum paid into the account of the noble lord.

Mr. Adam. Q. Did the witness deliver the account himself to any agent to Lord Melville?

A. I did not.

Mr. Morris. Q. Is it the practice of your house to transmit such accounts to persons keeping money with you?

A. It is.

Q. What was the state of Lord Melville's account in the year 1787?

Mr. Adam submitted that at present the managers were not in a situation to give any evidence upon the subject.

Q. Was the noble lord indebted to your house at that time?

A. He was.

Lord Chancellor. Q. How do you know that?

A. By referring to our books.

Q. Is it the usage of your house to charge interest upon the sums that are overdrawn for your customers?

A. It always is.

Q. Had Lord Melville given any securities which were then in the possession of your house, in respect of which he was liable to pay interest?

A. No farther at that time than a draft upon the house.

Q. Did the payment of those sums into the account operate to the reduction of the interest which was payable by Lord Melville?

Lord Chancellor. "We have no sum, Mr. Morris."

Mr. Morris. "My Lord, I understood the last witness had proved the sums."

Lord Chancellor. "Yes, but the statement of the account with this witness is not proved."

Mr. Morris. Q. Do you know that the accounts were transmitted to Lord Melville?

A. I do not know whether they were transmitted to his lordship.

Q. Do you know that they were transmitted to the agents of the noble Lord?

A. I certainly do.

Q. Who were the agents of the noble Lord, to whom those accounts were transmitted?

Q. Mr. James Newbigin, Mr. Robert Dundas, or Mr. Hugh Warrender.

Mr. Plomer. Q. Do you personally know that either of those persons whom you have named were the authorized agents of Lord Melville?

A. I understood them to be such.

Q. Did they act in that capacity?

A. They acted in that capacity.

Q. Do you know of your own knowledge, of the transmission of the accounts to any of those three persons you have named, and to which of them? Did you see them delivered to them?

A. No.

Q. Who carried them?

A. One of our clerks.

Q. Can you recollect who?

A. It is impossible.

By Mr. Morris. Q. Have you had any conversation with Lord Melville upon the subject of his accounts with your house?

A. Never, to the best of my recollection.

Q. Are the books before you the books of your house?

A. They are.

Q. Can you, by referring to those books, speak of your own knowledge to the state of the accounts?

The Lord Chancellor said, "that not being in his own handwriting, unless a copy of the accounts had been sent to Lord Melville, and notice had been given to him to produce that account so rendered to him, it was impossible to make them evidence."

Mr. Morris submitted, that the witness might refer to a particular item in that book, in order to see what was the amount of the sum upon which interest was charged.

Lord Chancellor. "I think not, if not in his hand writing."

Mr. Morris. Q. Was any security ever given by the noble lord for the balance resulting from that account?

A. Yes, there was.

Lord Chancellor. Q. Do you know that fact?

A. Yes, I do.

Mr. Morris. Q. What was the nature of that security?

Lord Chancellor. Q. What is become of that security?

A. The security was Royal Bank stock.

Q. What has become of it? Does that security remain with your house?

A. No, the accounts were closed several years ago.

Q. Do you know of your own knowledge to whom that security was delivered?

A. It was transferred back to his lordship.

Q. Do you know that fact of your own knowledge?

Q. Yes, I do?

Lord Chancellor. Q. How do you know that fact?

A. From our books.

Q. Do you know it from your own knowledge, or from any entry in your own hand writing?

A. Not from my own hand writing; I know nothing of it except from my books.

The managers were informed, that a transfer of Royal Bank stock must be proved by the books of the company.

Mr. Morris. Q. Was that account ever settled between your house and Lord Melville to your knowledge?

Mr. Plomer submitted that the existence of an account has not been proved.

Mr. Morris. Q. Has Lord Melville at any time settled an account with you?

A. Yes, he has.

Q. Was that account so settled, made up from the book before you?

Mr. Plomer. Q. Did you settle any account personally with Lord Melville, so as to be able to swear to the fact?

A. I certainly did not.

Mr. Morris. Q. Did you settle it with an agent of Lord Melville's?

A. I did not.

Q. On what ground did you state a few minutes ago, that you knew Lord Melville had settled the account?

A. From vouchers that I had seen signed by Lord Melville.

Lord Chancellor. Q. Where are the vouchers?

A. They are in our repositories.

Mr. Morris stated, that the managers for the Commons would not press this part of the case till they could get the vouchers.

Q. Do you, of your own personal knowledge, know that there was any such advance made to that amount from the house of Coutts and Company?

A. Yes.

Q. Whether you recollect about what time that advance took place?

Mr. Plomer. Q. What paper is that you are about to refer to?

A. It is a copy of an account kept by Robert Trotter with the house of Mansfield, Ramsay, and Co.

Mr,

Mr. Morris. Q. Is that a copy examined by yourself?

A. It is.

Q. Do you know about what time that advance from the house of Coutts and Co. took place?

Q. Do you know of your own personal knowledge, that there was an advance on the house of Coutts and Co. to the house of Mansfield, Ramsay, and Co. of 25,000l. without referring to that paper?

A. I recollect perfectly well, Mr. Robert Trotter being in London, and writing to us to draw upon him for a certain sum of money, which we did draw, payable to Coutts and Co, that amounted at different times to 25,000l.

Mr. Whitbread. "The account having been objected to, I will produce the original letter, which will be proved by Mr. Robert Trotter.

The witness was directed to withdraw.

Mr. Robert Trotter was again called in, and examined as follows:

Q. Is that the letter in your hand writing?

A. It is.

Q. From that letter do you recollect, that you directed the house of Mansfield, Ramsay, and Co. to draw upon Coutts for 10,000?

A. I do.

Q. What is the date of that letter?

A. The 15th August, 1787.

Q. Look at this letter. Is this your hand writing?

A. It is.

Q. Does that enable you to say, that you gave directions to Mansfield and Co. to draw another sum of 10,000l.?

A. It does.

Q. Did you give farther directions to the house of Mansfield and Co. to draw for a farther sum of 5,000l.?

A. I remember giving directions to draw for those two 10,000l. and 5,000l. more.

Q. Upon whose account was that money paid by the house of Coutts and Co.

A. My brother Alexander's account.

Cross examined by Mr. Plomer.

Q. When did you part with those letters?

A. About two months ago.

Q. To whom?

A. The committee of managers on Lord Melville's impeachment.

Q. Have all your papers been delivered to the committee of managers too?

A. Yes.

Q. And have ever since remained in their possession, have they?

A. That is, all accounts and letters from the year 1786 to 1800.

Q. All your private letters and papers relative to the accounts?

A. Yes, they were all delivered over to the committee, and they kept a great number of them, others they returned back.

Mr.

Mr. Whitbread. Q. Whether the committee did not inspect your letters, and deliver back such as appeared to you, not to relate to the accounts?

A. Yes, and gave a receipt for what they kept.

Mr. Plomer. Q. What means of knowledge have you of the fact of the actual payment by Coutts and Company to Mansfield and Co. of those sums you spoke of?

A. I never heard more of it, than afterwards, when Mansfield's house gave me credit for those sums.

Q. Have you any farther knowledge of that fact, than its being contained in an account subsequently rendered?

A. Yes, I remember the transaction perfectly well.

Q. Did you ever see the money paid?

A. No, I know no farther than getting credit from Mr. Mansfield's house for that money.

Lord Chancellor. "Let the books given in evidence be delivered in.

EIGHTH DAY.

THURSDAY, MAY 8TH.

MR. Morris. "My Lords, The examination to which we are proceeding respects the sums of money which were paid to Sir William Forbes and Co. and to Messrs. Mansfield, Ramsay, and Co. It was proved that the account of Lord Melville was overdrawn with these two houses, and farther, that it was the custom with the Scottish banking establishments to charge interest when they were so overdrawn. With regard to the other part of the evidence, as to the payment of money into Mansfield, Ramsay, and Co.'s house, it was shewn, that two sums were paid into the account, in consequence of this overdrawing; that the managers were not in a condition to lay before you all the particulars of the account. Mr. Mansfield could not speak from his own knowledge to the delivery of the account to Lord Melville, or to his agent, yet we hope to satisfy your Lordships on this subject; but if not, the question will rest upon the evidence now before you, as to the circumstances under which the sums were paid by Mr. Robert Trotter into that house, Messrs. Mansfield and Co. being one of the bankers of Lord Melville.

"We shall now have to submit to your attention, a payment of 25,000l., which was made to Lord Melville on account of Alexander Trotter. Robert Trotter will tell your Lordships, that he received interest from his brother at the rate of 4 per cent. for this sum."

Mr. Robert Trotter examined by Mr. Morris.

The account now put into the hand of the witness, he said was signed by him.—Interest was received by him on the sum of 25,000l. lent to his brother.—The interest stated in the amount was in two sums; 802l. and 1164l. 10s. 4d.—The total of 25,000l. was paid in three items; two of 10,000l., and one of 5000l.

The witness being cross-examined by Mr. Adam, said that the accounts were only with his brother, that no other person was, to his knowledge, concerned.

Mr. Morris, to save time, proposed that the minutes of the account put into the hand of the witness, and signed by him, should be read, but it was deemed unnecessary.

Mr. Edmund Antrobus sworn, and examined by Mr. Whitbread.

Q. Are you a partner in the house of Messrs. Coutts?
A. I am.

Q. Have you been for many years connected with that firm?

A. I have.

Q. Are you generally acquainted with the transactions of the house?

A. I am.

Q. Do you know Mr. Alexander Trotter as being one of its customers?

A. I do.

Q. How many accounts had Mr. Alexander Trotter with you?

A. Four or five.

Q. What were they?

A. He had one in his own name, without any distinction; a second was called his separate account; a third his private account; a fourth his paymaster's account; and a fifth an account in trust for Adam Jellicoe.

Q. Is it your custom to have the names of those who keep accounts with you signed in your books, to denote the agreement of such persons with the account?

A. It is.

Q. Did Mr. Alexander Trotter so sign his name?"

A. He did.

Q. Had Lord Melville an account with you?

A. He had.

Q. Had he a copy of his account with you delivered to him?

A. He had.

Q. Has such transcript been signed by him?

A. It was signed by him.

An account was here handed to Lord Melville, who admitted the signature. It was then put into the hands of the witness.

Q. Is that the account so signed by Lord Melville?

A. It is.

Q. Were vouchers of that account delivered to his lordship, or to his agent?

A. They were.

Q. Who was his agent?

A. Mr. Alexander Trotter.

Q. Was Mr. Trotter's account sometimes overdrawn?

A. It has been so.

Q. Do you know if the credit side of Mr. Trotter's account was in part supplied from the public money?

A. It was supplied by drafts upon the Bank, on account of the Treasurer of the Navy.

The question was repeated, and the witness said, that he had no doubt from the nature of the account, that the credit side was contributed to by public money.

Mr. Plomer objected to this, as evidence, not of fact, but of conjecture.

Q. Have you seen drafts of Mr. Trotter's on the Bank, for the purpose of increasing the credit side of his account?

A. I have.

Q. Are those in possession of the witness?

A. They are not.

Mr. Whitbread. "We shall produce a person from the Bank, to shew that the drafts were delivered to Mr. Trotter."

Mr.

Mr. Rippon was then called, but the objection being waved by the counsel for the defendant, Mr. Antrobus was recalled.

Q. Did Mr. Trotter's account consist of large permanent balances, or was it fluctuating?

A. It was generally fluctuating.

Lord Stanhope. Q. Of which account are you now speaking?

Mr. Whitbread. Q. Did the drafts upon the Bank supply the credits of all the accounts you have given in evidence?

A. Yes, excepting the account in trust for Mr. Jellicoe, and the private account.

Mr. Whitbread. "My Lord, the Commons propose to give in the books of Messrs. Coutts, by which it will be seen how these drafts were paid; and the part of their testimony, as to these matters of figures, will be deferred until that time."

Q. Was interest allowed by the house, upon the balances in Mr. Trotter's favor?

A. Never.

Mr. William Chapman sworn, and examined by Mr. Whitbread.

Q. Are you a clerk in Messrs. Coutts's house?

A. I am.

Q. Have you been there many years?

A. I have.

Q. Are you acquainted generally with all the books and transactions of the house?

A. I am.

Q. Have you examined the books, with a view to ascertain the account with Mr. A. Trotter, month by month?

A. I have.

Q. Are the papers now put into your hands of your own writing?

A. They are.

Q. Did you state the accounts with the view to the aggregate balance, or to the general result of them all when incorporated?

A. I did.

Q. Can you inform the court what was the balance of Mr. Trotter's accounts on the 31st of December 1787: excepting always the account in trust of Mr. Jellicoe, in this and your future answers?

A. Yes, by inspecting the accounts I have prepared from the books.

Q. Are the accounts in the books signed by Mr. Trotter?

A. They are.

Q. Are you acquainted with his hand-writing?

A. I am.

Q. Are the books in court?

A. They are.

Q. Produce one of the books.

The Lord Chancellor. "We must have all the books produced."

Mr. Whitbread. "My Lord, every one of them is in court."

Q. Is the book in your hand, a public book of the banking-house of Messrs. Coutts?

A. It is.

Q. Is the place where it is open before you, one of the accounts of Mr. Trotrer?

A. It is.

Q. Is there the signature of Mr. Trotter, denoting his agreement with the account before you?

A. Yes.

Q. Is that Mr. Trotter's hand writing?

A. It is.

Q. Which of the five accounts is that?

A. It is, his account.

Q. Is it the longest account?

A. By far.

Q. Have you in that book, every account which is not signed by Mr. Trotter?

A. None which is not signed relating to him.

Q. Are the balances struck upon the face of the book, or are they what you have struck yourself, on calculation from the books?

A. What I have struck myself from the books.

Q. Did you also strike the balances in the books?

A. I did.

On interrogatories to the witness, the following balances were stated:—

			L.	*s.*	*d.*
In favour of Mr. Trotter,	on the	31st October, 1793,	7,265	1	8
Ditto	Ditto	30th April. 1794,	8,196	7	10
Ditto	Ditto	28th February, 1795,	47,412	16	2
Ditto	Ditto	30th April, 1795,	107,971	1	2
Against Mr. Trotter	-	29th February, 1796,	630	4	9
Ditto	Ditto	31st March, 1796,	14,052	4	9
Ditto	Ditto	31st August. 1795,	2,649	8	2

Mr. Plomer. "The honorable manager is selecting the result of the accounts, but he is leading to a statement of the particulars. The statement of the multifarious items which form these balances, might make a material variation. Certainly, not having examined these accounts, I am not prepared to shew in what it may consist. I hope it will not be thought, that I interpose with objections unnecessarily, but I must contend, that we are competent to refer to each of the accounts, or to call the particulars which compose them, if at a future time, it should appear to us expedient. I only wish to have this distinctly understood."

The Lord Chancellor. "You are perfectly correct in your observation."

Mr. Whitbread. "I understand, that the learned counsel admits the se books as evidence, and no doubt he may have recourse to them as often as he pleases."

Lord Ellenborough. "It is competent to the learned counsel also, to furnish other accounts, if they wish to call these in question."

The Lord Chancellor. "There can be no possible doubt of this."

Lord Eldon. "The state of the accounts must depend upon the items from which the balances result. It is clearly open to Lord Melville's counsel to inspect all these accounts, and to shew any errors in them."

Q. You say that the balances of the accounts in the books are founded upon your calculation of the items that compose them?

A. Upon the items which compose them.

Mr. Whitbread. "Every balance then, is the result of his calculation, he making the bases the books themselves."

The witness then proceeded to state several other balances:—

			L.	*s.*	*d.*
Against Mr. Trotter	31st May,	1796,	2,286	16	9
Ditto	31st January,	1798,	31,776	0	4
Ditto	31st August	1799,	58	15	8
Ditto	31st March,	1800,	18,484	11	7
Ditto	30th April,	1800,	8,523	2	9

Some other particulars of the accounts were also stated.

Mr. Whitbread. "I wish the witness to take a book in his hand, and examine the state of an account on the 4th of September, 1792."

Q. What account is that before you?

A. It is called Alexander Trotter's own account.

Q. Is there any entry in the early part of September, I believe the 4th, 1792, debiting him for the purchase of India Stock?

A. I find an entry of the 4th of September.

Q. I beg the witness to read the entry?

By the entry it appeared, that, 40691. was laid out in India Stock, and farther 40551. in the name of Henry Dundas.

Q. What was the balance of Mr. Trotter's acconnt on the morning of that day?

A. He was creditor 2461. 8s. 6d.

Q. I am referring to his own account only?

A. I am speaking of his own account.

Q. Refer to the waste book of the house, to see how this credit arises?

Mr. Whitbread. "My Lord, I think another clerk made these entries: I shall call him."

The Lord Chancellor. "You of course mean to call this witness back."

Mr. Whitbread. "We do, my Lord."

William Carlton sworn, and examined by Mr. Whitbread.

Q. Are you a clerk in Messrs. Coutts's house?

A. I am.

Q. How long have you been so?

A. For many years.

Q. What is that book before you?

A. It is the waste book.

Q. Is any part of it in your hand writing?

A. Yes.

Q. Do you find an entry to the credit of Mr. Alexander Trotter in your hand-writing on that day?

A. Yes.

The

The witness read an entry 8000l. to the credit of Alexander Trotter.

Mr. Chapman recalled.

Q. Are the entries of the 4th of September, 1792, of your writing, or any of them?

A. Yes.

Q. Do you find an entry to the credit of Mr. Alexander Trotter, in your hand-writing on that day?

A. Yes.

Mr. Whitbread. Q. I wish now, that the witness should be referred to Mr. Trotter's own account, but first, I will ask him, does he know if in 1792, Mr. Trotter had more than two accounts with Messrs. Coutts?

A. I think he had, but I do not know positively.

Q. Refer to the paymaster's account on the 4th of September, 1792, and I desire the witness to calculate what was the balance of this account on the morning of that day, before the transactions commenced?

A. Mr. Trotter was a debtor in this account 102l. 19s. 2d.

Q. See by a reference to the books, if there be any other accounts open excepting his own account, and the paymaster's account just adverted to?

A. He had another.

Q. What was it?

A. His private account.

Q. What did it consist of?

A. I do not know.

Q. Read the entries in the book?

A. 1792. By balance 25,000.

Q. What is the debtor side?

The witness here read the particulars of the account.

Q. Was there at that time any other accounts with Mr. Trotter, except his own, his paymaster's accounts, and his private account?

A. There was, viz. his account with Adam Jellicoe.

Mr. Whitbread. "We do not my Lord, speak of this, because we put it out of the question altogether."

Mr. Edmund Antrobus recalled.

Mr. Whitbread. Q. Will you open the private account and look at the item on the 4th of September, 1792.

A. It is before me.

Q. Do you know what the entries are, relative to the 25,000l. you there see to the credit?

A. He is creditor by Robert Trotter.

Q. Does that private account of Alexander Trotter's relate wholly to the transactions with Mansfield, Ramsay and Co. Sir William Forbes and Co. and Robert Trotter?

A. Yes.

Q. And this is independant of all Mr. Alexander Trotter's other accounts?

A. It is.

Q. Was this money upon his own account?

A. Yes.

Q. And it contains no sums but what are referable to this 25,000l.

A. Nothing.

Mr. Plomer. Q. Have you any knowledge of any other person but Mr. Trotter in the transaction?

A. No.

Q. As soon as you received the 25,000l. did you credit Mr. A. Trotter for it?

A. We did not receive the money at one time.

Q. As soon as you had intimation of the exact money, you put it to the credit of Mr. A. Trotter?

A. Yes.

Lord Eldon. Q. How soon was the communication made from Mansfield and Co. respecting the items to the credit of this account?

A. I think in October 1789.

Lord Lauderdale. Q. What interest was paid upon it?

A. Four per cent.

Q. Is it the custom to draw upon bankers in Scotland for money lodged with them upon four per cent interest without previous notice.?

A. I believe not.

Lord Ellenborough. Q. Did you understand from Mr. Trotter, why this private account was opened for 25,000l.

A. I can easily suggest a reason, but I do not know positively about it.

Q. Do you know any purpose of convenience to be answered by opening the account in that manner?

A. I do.

Q. What is it?

A. Mr. Trotter could draw for it when he pleased, otherwise, he must send to Scotland for it?

Mr. Whitbread, "What we undertook to prove was, that, on the 4th of September, Mr. Trotter laid out 4000l. in India Stock, and a similar sum for Henry Dundas; he being debtor in his accounts, and the only credit being a draft of 8000l. on Mansfield, Ramsay, and Co."

Mr. Plomer. Q. Were all the drafts of Mr. Trotter from the Bank upon the credit of the Treasurer f the Navy?

A. All that I have seen were so.

Lord Stanhope. Q. Are all these five accounts which you have spoken of, in that book before you?

A. I believe all of them excepting perhaps one.

Duke of Cumberland. Q. Did you say the accounts were delivered to Lord Melvile?

A. My directions were given for that purpose, but I did not see them delivered.

Mr. Whitbread. "My Lords, I will now call your attention to a quantity of Loyalty Loan, which was purchased by Lord Melville through the medium of Messrs. Coutts, and afterwards transferred to the chest account. I will recal Mr. Chapman, and put into his hand the accounts signed by Lord Melville which have been seen by the counsel for his Lordship. It will be observed that the payments were made by Trotter, that they were carried

ried to his account current, and subsequently into the chest account."

Mr. Plomer said, that nothing of this kind had been proved.

The Lord Chancellor. "Nothing which the honourable managers say, can go for any thing until proved."

Mr. Chapman recalled.

Mr. Whitbread. Q. I beg you to refer to 1797 in Lord Melville's account upon the 13th of January. What do you find entered there?

A. A payment of 500l. being the first payment of five per cent. upon the Loyalty Loan.

The Lord Chancellor desired that the witness would read the whole of the entry relating to that transaction, with which he complied.

Mr Whitbread, Q, Refer now to an entry of the 17th of March, 1797, in the annual account.

A. I find there under the date of the 17th of March, 1797, the second payment on the loan of 1000l.

Q. And what do you find on April the 21st of the same year?

A. A third payment, likewise of 1000 l.

Q. On the 2d of June the third year, what do you find?

A. A fourth payment of the same amount, 1500l.

Q. And on the 21 of July?

A. The fifth payment of 15 per cent, 1500l.

Q. On the 25th of August of the same year?

A. The sixth payment 1500l.

Q. And on the 27th of September of the same year?

A. There I find the last payment upon it, 3000l.; less the discount.

Mr. Whitbread. "Now, my Lords, I mean to shew, by a comparison of Lord Melville's and Mr. Trotter's account, that these payments to the Loyalty Loan were in part from the latter, and of course from the public monies."

Q. Refer to the credit side of the same account, 14th of January, 1797

A. Here I find, By cash received of A. Trotter, 1000l.

Q. The 25th of April of the same year?

A. 2000l. is credited by A. Trotter.

Q. Now look to the 7th of June?

A. There I find 1000l. in the same account of Mr. Trotter.

Q. Now look to the 29th of July?

A. By Alexander Trotter 1500l.

Q. And 1st of September of the same year?

A. 1500l.

Q. And on the 27th September of the same year?

A. 3000l. on the same account.

Mr. Whitbread, Q. Let the witness cast these items up, and see if they do not tally with the sum of 10,000l. paid for the Loyalty Loan?

A. The total of these entries is 10,000l.

Q. The last entry was 3000l. to complete the 10,000l.; now cast up the other side, consisting of the payments of the Loyalty Loan, and see what it amounts to?

A. I find it to be the same as on the other side, 10,000l.

Mr.

Mr. Whitbread. "I have now shown the state of Lord Melville's amount, as connected with Mr. Trotter's, between the 13th of January and 27th of September, 1797; and that his Lordship between these periods, was credited to a considerable extent by Alexander Trotter in these books. I now mean to shew by the books when the Loyalty Loan was sold, and for this purpose I shall refer you to an entry of the 21st of May, 1800."

Q. Is there not a credit to Lord Melville's account under that date?

A. There are some items to his credit, and one for the amount of 10,757l.

Mr. Whitbread. "The loan having cost 10,000l. we say it was sold for 10,757l."

Q. Was Lord Melville credited for the amount of the sale?

A. It appears so.

Q. From the signed account in your hand?

A. It does.

The honorable manager here went into a minute investigation of various items in the accounts between Lord Melville and Messrs. Coutts, the general object of which was, to establish the existence of certain speculations in the stocks, in the 5 per cents Reduced Annuities, and India Stock, in order to shew, that the whole of them were supplied from the public monies in the hands of Mr. Trotter.

Mr. Adam said, that the counsel for the noble defendant, could by no means follow this minute investigation of the accounts, being wholly unprepared for it, and he desired that the books and papers might be submitted to their inspection.

The Lord Chancellor ordered that they should all be brought into court.

Mr. Whitbread. "The only reason they were not before surrendered is, because it was necessary that the Commons should have them for the express purpose of this examination."

In consequence of some questions by Lord Westmeath, Mr. Whitbread enquired, if the accounts from which the witness had spoken, were in his own hand-writing, and if they contained every month, the balance of such accounts? To both these questions answers were given in the affirmative.

Bishop of St. Asaph. Q. How long have you been clerk?

A. Eleven years, my lord.

Q. If the witness has only been clerk for eleven years, I desire to know upon what ground he speaks of matters of account so early as the year 1788?

A. I speak from the ledgers of Messrs. Coutts.

Mr. Whitbread. Q. Were those ledgers signed?

A. They were.

By the desire of Lord Auckland, several other items of account were read, consisting of payments by Alexander Trotter between the 13th of January and the 27th of September, 1797.

Mr. Plomer. "If it be intended that all these statements of balances, should be entered as evidence on the minutes of your Lordship, it will not be supposed that we concede to them, and it will be competent to us to contest them at the proper time."

Mr. Whitbread. "The managers of the Commons propose to put in the account of Lord Melville, to which they have had such frequent recourse, and in addition to this, the books themselves from which it is prepared: by which means, any of their Lordships, and the learned counsel for the defendant will be afforded the best opportunity of detecting any inaccuracies in the originals."

Mr. Plomer. "I want to know, if it be expected that these balances should be introduced on the minutes, as adjusted balances?"

Mr. Whitbread. "Upon the subject of these balances, it will be perfectly easy for the managers of the Commons to give in evidence, item by item, the particulars of which they are composed; and there is nothing that they desire more, than to give the utmost satisfaction as to the accounts."

Duke of Cumberland. Q. Does the paper before you contain the whole of the account with Lord Melville, or are particular items excluded?

A. I believe the whole.

Q. Can you swear to the signature of Lord Melville subscribed to that account?

A. The signature of Lord Melville appears here, but I cannot swear to it.

Lord Eldon. "I understand the books are signed by Mr. Trotter, and this may be sufficient to fix them as against him. What I object to is, that by the form of the examination it would appear, that the witness is supposed to have gone through all the particulars which constitute these ultimate balances, when, on his own evidence, the fact is otherwise. The learned counsel for the noble defendant will look at the items which form these balances, and they will have a clear right to put upon your minutes all the particulars from which they are composed."

Lord Stanhope. Q. Take the balance paper in your hand (not Lord Melville's account) and inform the court if that account states the aggregate balance, or all the separate balances?

A. These are only the aggregate balances?

Mr. Whitbread. Q. Do not the papers contain the balances of each month, and also an aggregate of all the balances?

A. They do.

Q. Were not the separate balances struck by yourself?

A. They were.

The next interrogatories applied to the act of the 23d of December, 1796, by which the sum of 10,000l. of the Loyalty Loan became 11,250l. The first clause of the act was about to be read, but the court being perfectly acquainted with it, it was deemed unnecessary.

Lord

Lord Eldon. Q. You having stated, the balances in the aggregate, and the separate balances, at particular periods, viz. monthly; I want to know, if you have any statement of what they were in the course of the month, as from week to week, or otherwise?

A. I have not.

The witness being asked, if the monthly balances had been shewn to Mr. Trotter, he said that he believed they had not.

Mr. Coutts Trotter sworn and examined by Mr. Whitbread.

Q. Are you a partner in the house of Messrs. Coutts?

A. I am.

Q. Were you so previous to the year 1800?

A. I was.

Q. Have you any knowledge of a loan advanced to Lord Melville by your house, to the amount of 13,000l.

A. I have.

Q. Were you the person who transacted the business of this loan between your house and Lord Melville?

A. I was.

Q. Had you any personal intercourse with Lord Melville on the subject?

A. I had.

Q. Was the sum to be borrowed always understood to be the precise sum of 13,000l.

A. I cannot positively say.

Q. Was it always supposed to be for that amount?

A. I do not now think it was.

Q. What do you imagine was the original sum intended to be borrowed?

A. I think it was 10,000l.

Q. Do you know the reason of the increase?

A. I do not.

Q. Did you make any communication of what passed between you and Mr. Alexander Trotter on this subject to Lord Melville?

A. I spoke to his lordship about it.

The Court. Q. What passed between Lord Melville and you, as to the security for this loan?

A. There was to be the collateral security of Mr. Robert Dundas, and his lordship's salary as Keeper of the Signet.

Q. Was that carried into effect?

A. It was.

Q. Was there any other security besides these?

A. Yes, there was India stock.

Mr. Whitbread. "I shall not ask any farther questions at present of this witness, but I shall beg that Mr. Coutts Trotter may be called hereafter. To carry on the thread, I shall now recal Mr. William Carlton."

William Carlton recalled.

Mr. Whitbread. "The witness now in the box was the person who paid into the house of Messrs. Coutts the Bank notes

which constitute the amount of 13,000l, and another larger sum, and which were paid into the act of parliament new account.

Q. I wish the witness to refer to the note now put into his hand, and to see if it is of the 21st of May, 1800, and payable to the act of parliament new account; was that not paid in on that date, and upon that account?

A. The payment was made to Alexander Trotter, in consequence of drafts of Lord Melville's upon his act of parliament new account.

Q. In what form were the drafts?

A. They were in two drafts, the one for 13,000l. the other for 19,024l.

A. Are these notes now before you, in consequence of two drafts from Lord Melville, payable to the act of parliament new account, and to the credit of Lord Melville's account with Messrs. Coutts?

A. They are, my Lord.

Mr. Plomer. Q. Where are the vouchers?

Mr. Whitbread. A. You may remember, that all the vouchers were delivered to Lord Melville.

Mr. Plomer. "Do you recollect what was the import of these drafts?"

Mr. Whitbread. "Before that question be answered, I wish to ask, if on the other side they have not had notice to produce the drafts?"

Mr. Plomer (to the witness). Q. Where these drafts delivered to Lord Melville?

Mr. Whitbread. A. Mr. Antrobus will prove that fact.

Mr. Plomer. Q. Has the witness any recollection respecting the drafts, or does he give evidence wholly from the books?

A. From the books.

On the desire of the learned counsel, the witness read the entry, which states 13,000l. paid by the Right Honorable Henry Dundas, &c.

Mr. Whitbread. "It is in evidence, that these drafts were upon the act of parliament new account, and so it appears by the entries just read. We have shewn, that the produce of these were in specific notes. The managers of the Commons now propose to pursue these notes to the Bank, and to shew, that they were placed to the credit of the act of parliament new account.

Mr. John Taylor sworn and examined by Mr. Whitbread.

Q. Are you a clerk in the Bank?

A. Yes.

Q. Were you so before 1800?

A. I was.

Q. As clerk to the Bank, did you receive in payment the notes now put into your hands?

A. I did.

Q. To what credit did you pass them?

A. To the act of parliament new account.

Q. Of what amount are these?

A. 19,024l.

Q. To

Q. To what account did you carry those other notes, which I have now given you?

A. To the Right Honorable Henry Dundas' act of parliament account.

Q. When notes are cancelled at the Bank, are they stamped in this way?

A. Yes.

On his cross-examination by Mr. Plomer, the witness said, that when Bank notes were carried to the Bank, it was the course to enter and cancel them, whether from the Paymaster of the Navy, or any one else.

Mr. Henry Whiting sworn, and examined by Mr. Whitbread.

Q. Are you a clerk in the Bank?

A. I am.

Q. Were you so in May, 1800?

A. Yes.

Q. Take this book, and tell me if that book is in your hand-writing, or any part of it?

A. Yes, it is.

Q. What is that book?

A. It is the Bank check-book of the Right Honorable Henry Dundas.

Q. Is there 19,024l. 12s. 3d. to the credit of that account in May, 1800?

A. Yes.

Q. In what manner was it paid?

A. By Bank notes.

Q. Turn to the next entry?

A. It is 13,000l.

Q. How was it paid?

A. In Bank notes.

Mr. Whitbread. "Now we propose to shew the entry in the Bank Cash-book of these particular notes.

Mr. John Hatfield sworn and examined by Mr. Whitbread.

Q. Were you clerk of the Bank in May, 1800?

A. I was.

Q. What is that book before you?

A. It is the book called the Cash Book, into which we copy notes.

Q. Is the book, or any part of it in your hand-writing?

A. It is.

Q. Is the entry now open of May, 1800, of your hand-writing?

A. Yes.

Q. Refer to the entry of the 22d of May, 1800, of 19,024l.?

A. There is an entry of that date.

Q. Of what sum?

A. 19,020l.

Q. To whose credit?

A. To the credit of Henry Dundas.

Some

(Some Bank notes were put into the hands of the witness).

Q. Do these notes correspond with the 19,020l. in that entry?
A. They do.
Q. Is it the custom with the Bank, to enter the 1l. notes in the same book?
A. They are not entered in the same book.

Mr. Whitbread. "The difference of 4l. is occasioned by this sum having been paid in 1l. Bank notes, and, unfortunately, we cannot prove these four small notes."

Q. Refer to the entry of the same day of 13,000l?

(Other Bank notes were now given to the witness).

Q. Do these notes, now put into your hand, correspond with that entry?
A. They do.
Q. Were these notes also carried to the account of Henry Dundas?
A. They were.

Mr. Whitbread. "Brand, who made the entry of the 1l. notes, is not in a condition to prove them."

Mr. Rippon called, and examined by Mr. Whitbread.

Q. Turn to the act of parliament new account, and refer to the entry of 5333l. on the 2d of June, 1800, and say, if that be in your hand-writing?
A. It is.
Q. State the amount?
A. It is 5333l.
Q. What does the entry purport?
A. It is a draft from the old account to this account.
Q. By whom drawn?
A. This book does not shew by whom drawn.
Q. Is it a credit from the old account to the new account?
A. It is.

Mr. Whitbread. "We have before had in evidence the old account. I wish your clerk to read from that account an entry of the 2d of June, 1800."

Mr. Barlow read the corresponding entry in the old account, amounting to 5333l. 8s. 4d.

Mr. Rippon recalled.

Mr. Whitbread. "We with to shew, my lord, the public cash at the Bank on the 2d of June 1800."

Q. Do you find an entry in the act of parliament account of cash, on the 2d of June 1800, to the Right Hon. Dudley Ryder, from the Right Hon. Henry Dundas's account?
A. The 2d of June, 1800, by act of parliament new account 337,779l. 9s. 10d.

Q. We

Q. We now desire the witness to read what is to the debit of the Right Hon. Henry Dundas's account under the same date?

A. On the 2d of June the balance is 337,779l.

Q. To whom is it payable?

A. To Dudley Ryder.

Q. And from whom?

A. From Henry Dundas, act of parliament new account.

Mr. Plomer. "I understand this to be a transfer of the balance."

Mr. Whitbread. "This is not the whole balance; there are two other smaller items, which I beg to collect from the testimony of the witness."

Q. Refer now to the credit of the Right Hon. Dudley Ryder on the 3d of June, and see what was the amount?

A. The amount is 31,510l. 12s. 2d.

Q. Attend to the next credit?

A. It is on the 6th of the same month, 54,288l. 4s. 6d.

Q. Making the whole balance how much?

A. The three sums amount to 423,578l. 6s. 6d.

The witness then examined the two items of 31,510l 12s 2d. and 54,288l. 4s. 6, and they were found to coincide.

Mr. Plomer. Q. Does this comprehend every shilling due from Lord Melville to the public at that time?

A. These were the balances of the books at that time.

Mr. Whitbread. "The Commons consider that they have now proved that the items of 19,024l. and of 13,000l. were paid from Messrs. Coutts into the Bank; and farther, that there was a transfer to the new account of 5333l. They now mean to shew that that balance from June 1800 to July 1805, remained in the account."

Mr. Chapman recalled, and examined by Mr. Whitbread.

Q. This is Lord Melville's signed account which I put into the hand of the witness, and I beg him to refer to the entry on the debit side on July 27, 1805?

A. On that date there is a debit of 5111l. 2s. 9½d.

Mr. Whitbread. "We now propose to call Mr. Cobb, to shew that this sum was paid from the Exchequer."

Mr. Cobb examined by Mr. Whitbread.

Q. What book is that in your hand?

A. The book of account of the Right Hon. Henry Dundas.

Q. Does that contain the daily account of the Right Hon. Henry Dundas, as to his first treasurership?

A. It does.

Q. Are these accounts signed, and properly passed in the office?

A. They are.

Q. Refer

Q. Refer to an entry in July, and read the discharge of Lord Melville of the balance there due.

A. The amount is 5111l. 2s. 9½d.

Q. Was that the final balance of the treasurership so paid in?

A. It was.

Q. Do you know of your own knowledge, the day on which it was paid in?

A. I believe on the 27th of July, 1805.

Q. When was that account passed?

A. On the 18th of October, 1805.

Q. When was it audited?

A. In June.

Mr. Plomer. "What audited in June, and not declared till October?"

Mr. Plomer. Q. Is there any difference between the acknowledged balance and the declared balance?

A. Yes, sometimes, and the acknowledged balance is occasionally paid in, although different from the account declared.

Q. Was the actual balance due from the noble defendant, ascertained or audited, until the time of the entry in October?

A. Not I believe till June.

Q. Was the balance in the treasurer's hands liable to the assignments notwithstanding?

A. When the balance was paid in, I suppose there was no such liability.

Q. Prior to its being so paid in, is it liable to the assignments upon it?

A. That I cannot say.

Mr. Whitbread. "For the sake of the regularity upon the minutes of the court it may be necessary to take the numbers of the Bank Notes."

The Lord Chancellor. "We shall have the Bank notes themselves."

Mr. Whitbread. "We shall now, my lord, adduce evidence to a very considerable advance, made to the noble defendant."

Mr. Serjeant Best. "In the year 1791, a large quantity of stock was transferred to the name of Mr. Montague Lind, and subsequently the same stock was transferred to Mr. Francis Lind, his brother."

Mr. Philip Antrobus called and examined by Mr. Serjeant Best.

Q. Are you a stock-broker?

A. I am.

Q. Did you in the year 1789, purchase India stock for Mr. Trotter?

A. I did.

Q. In whose name was it purchased?

A. In my own.

Q. Did you in May 1790, purchase more stock for Mr. Trotter?

A. On the 22d of May I did.

Q. In whose name was it bought?

A. In my own.

Q. What was the amount of the first purchase?

A. 10,507l. 10s. was the cost of it.

Q. What

Q. What was the second?
A. I believe 9302l. 10s.
Mr. Serjeant Best. Q. Making together 19,810l.?
A. Yes.
Q. Did you give Mr. Trotter a memorandum of it?
A. I did.

John Kennet sworn and examined by Mr. Serjeant Best.

Q. Are you clerk at the Transfer Office at the India House?
A. I am.
Q. Have you looked at that account, and is it a correct copy of the India Company's transfer?
A. Yes, it is.
Q. Read the entry.
A. It is a transfer of 12,000l. on the 1st of June 1791.
Q. Does it appear transferred?
A. Yes.
Q. To whom?
A. That is not stated.
Q. Have you the book in which it is stated?
A. Not here.
Q. It however appears that the sum of 12,000l. is transferred!
A. Yes.
Q. Do you see a sum of 1000l. transferred to Rt. Hon. Henry Dundas?
A. Yes.
Q. Does it appear to be transferred from this particular stock?
A. It does not appear from what particular account.
Q. Is there another account from which it could be tranferred in the name of Montague Lind?
A. Not on that day.

Mr. Serjeant Best. "I now propose to shew this balance remaining until the 17th of January, 1793."

Q. Attend to that date?
A. There appears in the account a transfer of 12,000l. from Montague Lind.

Mr. Serjeant Best. "I now propose to shew that 1100l. and 2000l. were transferred in 1796."

Q. Look at the entry on the 9th of January 1796?
A. On that day there is a transfer of 13,000l.

Francis Lind sworn and examined by Mr. Serjeant Best.

Q. Was 13,000l. India Stock transferred into your name?
A. It was.
Q. To whom did that stock belong?
A. I never was told to whom it belonged.
Q. Had you any property in it?
A. Not the least.
Q. From whose name was it transferred, when it was passed into your name?
A. It had been in the name of my brother Montague Lind.
Lord Eldon. Q. When the stock was transferred from Montague Lind's into your name, were you acquainted with the transfer?

 A. I knew

A. I knew nothing of it.
Q. When did you first know of the transfer into your name?

The witness in answer, gave a short account of the transaction, and added, that his brother told him, that it was not his own stock, but he never was informed whose it was.

Q. When you transferred the stock again, did you do it personally?
A. I believe I did.
Q. Had you any knowledge at any time, while the stock was in your name, who was the proprietor?
A. Not at all.
Q. Do you know it was not your brother's?
A. Yes I do.

Mr. Kennet recalled and examined by Mr. Serjeant Best.

The examined copy of the East India transfers was again put into the hands of the witness.

Q. Attend to the entry of the 26th of February, 1801?
A. There is a transfer under that date of 5500l.
Q. Now look to another on the 25th of November, 1802?
A. There is at that time a further tranfer of 8000l.
Q. Does that close the account of 13,500l. India Stock?
A. It does.
Q. To whom was the last transfer?
A. To Mr. Mark Sprott.

Mr. Edmund Antrobus recalled, and examined by Mr. Serjeant Best.

The first questions that were proposed to the witness respected numerous entries in the signed acounts of Lord Melville on the 21st of May, 1800. The examination then proceeded to other particulars.

Q. Do you find any account of the 24th of May?
A. There is a sum of 12,743l. 2s. 6d. under that date.
Mr. Plomer. Q. Were the Stocks referred to in this amount belongiug to your house, or to Mr. Alexander Trotter?
A He was credited for them.
Q. With respect to the Loyalty Loan, under whose control was it?
A. We had a power to sell it and receive the dividends.

(The witness here read the power given for that purpose, and signed by the defendant)

Mr. Serjeant Best. "I desire that this power may be entered as read."

The cross-examination was farther pursued, as to numerous items connected with these accounts.

Mr. Francis Lind was next recalled by the desire of Lord Stanhope, who enquired, if this witness knew nothing of any dividends received, while the stock stood in his name, or if he had become acquainted since, with any circumstance relating to it; to which

Francis

Francis Lind replied, that he knew nothing of any dividends being received, or of any particular regarding the stock, but what he he had communicated.

Mr. Serjeant Best. " I shall now shew that the sum of 12,743l. 2s. 6d. was drawn out by a draft of Mr. Alexander Trotter's, and was paid for account of Lord Melville.

Mr. William Carlton recalled, and examined by Mr. Serjeant Best.

Q. Turn to the entry of the 24th of May, 1800.

The Lord Chancellor (interposing)

Q. What is that book?

A. It is the day-book of Messrs. Coutts.

Q. Mr. Serjeant Best. Q. What do you find entered under the date I have just mentioned?

A. The sum of 12,743l. 2s. 10d. is entered on the 24th of May, 1800.

Q. Is that paid to a draft of Mr. Alexander Trotter's?

A. Yes.

Q. On the day of the date of the entry?

A. It was.

Q. Have you the account of the Bank notes in which the draft was paid?

A. I have.

Q. Do you now hold in your hand the very Bank notes in which it was paid?

H. I do.

Mr. John Lincoln sworn and examined by Mr Serjeant Best.

Q. Are you a clerk in the Bank?

A. I am.

Q. Refer to the entry in your book of the 24th of May, 1800, and tell me if these Bank notes just delivered to you were paid into the Bank?

A. They were.

Q. When were they so paid?

A. On the 24th of May, 1800.

After some interlocutory observations between Lords Lauderdale and Eldon, and Mr. Edmund Antrobus had in consequence appeared,

Mr. Kennet was recalled, and examined by Mr. Serjeant Best.

Q. What paper have you there?

A. It is an account of the Right Hon. Henry Dundas.

Q. Do you find stock there entered in that name?

A. Yes.

Two entries were then read, appertaining to such stock.

Mr. Serj. Best. " The Commons say, thatthey have now proved 13,500l. in India Stock, bought for Lord Melville, and a produce from the Loyalty Loan of 11,250l. paid out of the public money. They have also shewn the same application with respect to 4000l. paid out of the Bank for Lord Melville, and they have established

by similar evidence the same fact with respect to the items of 11,000l. 5324l. and 21,725l. 7s. 9d. which he withdrew from the public money.

Mr. Kaye sworn and examined by Mr. Serjeant Best.

Q. Have you made any, and what calculations upon the sums proved by the managers of the Commons?

A. I have made a calculation my lord.

Q. Does the paper in your hand contain it?

A. Yes, it does.

Mr. Plomer. "My Lord, I must object to this evidence. To admit it would be to receive the opinion of the witness in the nature and effect of the evidence, which your lordships alone are competent to determine; and it would be to give a result in figures, which every member of the court is capable of extracting from the particulars in evidence. There are no facts to which any regular examination can apply."

Mr. Adam. "The managers say that there are certain matters proved; that is, that certain data are established, and you are now called upon to receive the calculation of an individual upon these data. This is an attempt by head managers to sum up the evidence before the fit time. The proper stage of the proceeding will arrive, when the manager to whom that duty shall be entrusted, will have an opportunity of stating to your lordships, his conclusions from these data. Your lordships will not permit this irregular course to be pursued, nor will you be disposed to receive mere calculation upon oath."

Lord Ellenborough. "This is simply casting up, with the assistance of a witness, that account which every noble lord may do for himself but this may be often done through the medium of a witness, in a more commodious manner."

The Lord Chancellor. "The constant course with courts of justice is, occasionally to resort to such assistance."

Mr. Plomer. Q. When did you make the calculations upon that paper?

A. I made the last corrections yesterday.

Q. When did you begin to make this estimate?

A. One day last week.

Q. On what day?

A. I do not know.

Q. Did you make them all yourself?

A. Yes, all myself.

Q. From what did you take the particulars on the papers?

A. I took the first item, which is 7500l. stock.

(*Witness interrupted.*)

Q. Do all the data upon which the calculations are made, appear upon the face of the paper?

A. They do.

Q. Are you solicitor to the hon. managers of the Commons?

A. I am

A. I am.

Q. And also for the Bank?

A. I am.

Q. How often have you made corrections in your estimate?

A. I mistook 14,500l. for another sum, and perhaps in a second item was corrected.

Lord Eldon desiring to inspect the paper, it was delivered to him.

Q. Does it include the difference between the prime cost of the stock and the sale.

A. It does.

Q. Does it comprehend any part of what you say Lord Melville is indebted?

A. It does.

Q. Is credit given for the interest from year to year upon that account?

A. Yes, upon 23,000l. for a whole year.

Q. This is not, I take it, a statement exclusively of interest, but of the profits in the stock, where any profits are supposed to arise?

A. Yes.

The witness now explained generally the mode in which the calculation was made, and particularly the difference upon the rule of the India stock.

The Lord Chancellor. Q. Is there any thing stated there regarding the 10,600l. on the chest account?

A. No, my lord.

Q. Are you not supposing certain things have taken place, in order to make these the foundation of your account?

The witness read many of the particulars in answer to some interlocutory observations of Lords Auckland, Ellenborough, Radnor, and Westmeath.

Lord Eldon. Q. Is this paper upon the assumption of all the facts being proved?

A. Most certainly, I have assumed the facts.

Mr. Whitbread. " We now propose to prove that the 13,500l. was not Lord Melville's; and for this purpose the managers will call Mr. Coutts Trotter. We shall shew that the stock was charged, but not sold, although the price was ascertained.

Mr. Coutts Trotter recalled, and examined by Mr. Whitbread.

Q. Have you any knowledge of the power of controul given over 13,500l. India Stock, by Mr. Alex. Trotter to Mr. Mark Sprott?

A. Yes, I have.

Q. Was this authority given in writing, or verbally?

A. It was in writing.

Q. Have you the instrument in your possession?

A. I have.

The

The power was read by the witness, from which it appeared that it not only included the India Stock, but the 3 per cents. and a loan in the year 1799 under the name of the Loyalty Loan.

The witness was next examined as to the state of the Loyalty Loan at different periods.

Mr. Mark Sprott sworn and examined by Mr. Whitbread.

Q. Did you accept the controul over a sum of 13,500l. India Stock from Mr. Alex. Trotter in May 1800, and under orders from him?

A. I did.

Q. Did the witness, in consequence of the intervention of Mr. Trotter, advance money for the India Stock and other funds?

A. I did.

Q. To what amount?

A. The sum was about fifty-one thousand, seven hundred, and odd pounds.

Q. On whose account did you make the advance?

A. It was for Mr. R. S. Dundas.

Q. Had you complete power over these funds, in consequence of such advance?

A. Yes, I had.

Q. To whom did you pay the said money?

A. To Mr. Alex. Trotter.

Q. Did you receive a draft from Lord Melville to make the account even? The amount was 14271. 11s. 7d.

A. I never did receive any draft from Lord Melville.

Q. Did you receive a sum of money of about this amount in any form from Lord Melville?

A. I did not.

Q. Did you receive such a sum from any one for the purpose of making the balance of the account referred to even?

The witness here said, that the date on which he received a sum was the 22d of May, and the particulars were noted in his book, which unluckily he had not brought with him.

Q. Do you know at all that you received such a sum?

A. Yes, I certainly did.

Q. From whom do you suppose you received it?

A. From Mr. Alex. Trotter.

Q. Did you transact money business largely with Mr. Alex. Trotter?

A. I have borrowed money of him, and lent him money in large sums.

Q. Did you ever purchase navy and victualling bills, and other government securities, for Mr. Alex. Trotter?

A. I have purchased navy bills.

Q. Will you refer to your book to see the amount of the navy bills so purchased.

The book was not produced.

Q. Were the bills so purchased for Mr. Alexander Trotter ever at a discount?

A. I do not immediately recollect that they were.

Q. Do

Q. Do you remember if Mr. Alex. Trotter borrowed any sum of money of you, in order to avoid selling his navy bills?

A. I remember his borrowing money of me, but for what purpose I do not know.

The witness cross-examined by Mr. Adam.

Q. Had you any pecuniary transactions at any time with Lord Melville?

A. Never.

Q. Have you any acquaintance whatever with Lord Melville?

A. I have a very slight one.

Q. Were you applied to by Mr. Trotter to advance money upon the security of stock?

A. Yes.

Q. Will you state the particulars of that transaction, as well as you can recollect?

A. I objected to different stocks that were proposed; a good deal of conversation arose; and I at last said, I would lend upon the three per cents.

Q. It was upon account of the transactions resulting from that conversation that you received the balance mentioned of 1427l. 7s. 11d.

A. Yes, it was?

Q. Had you any intercourse with Lord Melville during these transactions?

A. None, whatever.

Q. Is the stock so alienated to you, disposed of or not?

A. I cannot very well answer to that question exactly, but I know it was very long-winded.

The learned counsel for the defendant directed a paper to be delivered over to the witness, and then proceeded.

Q. Is that your hand-writing?

A. Yes, it is.

Q. Was that paper written by you at the time of the transaction?

A. Yes, it was.

Q. Examine the paper, and see if it refreshes your memory as to the particulars of the negociation?

The witness, slowly perused the contents of the paper.

Q. Were not these transactions exclusively on account of Mr. Alex. Trotter?

A. They were on his account.

Q. Have you any knowledge or belief that any other person was concerned in them?

A. None whatever.

Q. You have no suspicion that he was the agent for any other person?

A. None.

Q. Had you any knowledge at the time of the transaction that the money advanced by Mr. Trotter was public money?

A. Certainly not.

Q. Has the witness any acquaintance with the connections of Mr. Trotter, and does he know that many of them are persons of respectability and opulence?

The witness made some observations on the respectability of Mr. Trotter's family, and of his connection with Messrs. Coutts. He was then re-examined by Mr. Whitbread.

Q. Do you recollect or not if you were ever told that the money so advanced was for Lord Melville?

Mr. Plomer objected to this interrogatory. "The witness may speak to what devolves within his own knowledge, but he must not in this way give evidence as to what he conjectures from the information of others."

The hon. manager contended, that this mode of re-examination necessarily arose out of the cross-examination of the learned counsel, and to shew this, he recited that part of the examination by Mr. Adam, which applied to the question. He then repeated his own interrogatory, which was somewhat varied when proposed by the Lord Chancellor.

Q. Do you know, of your own knowledge, if the money was advanced for Lord Melville or not?

A. I do not.

Q. Were you not desired to advance this money upon Lord Melville's security?

A. I was not.

NINTH DAY.

FRIDAY, MAY 9TH.

MR. Whitbread. "Your Lordships will recollect, that it is in evidence before you, that a letter was written by Lord Melville to the Commissioners of Naval Enquiry, in the month of June, 1804. It is also proved by Mr. Serjeant Praed, that a message was sent to the defendant, requesting him to appear before the Commissioners, at any time which might be most convenient to himself. We now propose to read the letter from his Lordship in answer to the summons. To establish this, the Commissioners will call Mr. Williams, the secretary to the Commissioners of Naval Enquiry. Mr. Serjeant Praed could not depose to this fact, as at the time the summons was sent, he was not a Commissioner. The letter is dated the 3d of November, 1804, acknowledges the receipt of the requisition for his attendance, two days prior to that date. We cannot, my Lords, produce the letters themselves, which have passed between the Commissioners and the noble defendant, but we shall read the precepts from the commencement."

Mr. Plomer. "On a former day, it was proposed to read each letter in its order."

Mr. Whitbread. "And it is now our intention to introduce them in their proper places."

John Williams sworn, and examined by Mr. Whitbread.

Q. Are you secretary to the Commissioners of Naval Enquiry?

A. I am.

Q. What book is that you hold in your hand?

A. The book containing the proceedings and precepts of the Commissioners.

Q. Refer to a letter antecedent to the 30th of June, 1804.

A. It is dated the 26th of June, 1804.

Q. Is that the first precept addressed by the Commissioners of Naval Enquiry to Lord Melville?

A. It is.

Q. Have you a precept appearing to be dated on the 2d of November, 1804, adressed to Lord Melville?

A. There is.

The precept was here read, it purported to be a requisition of the attendance of Lord Melville upon the Commissioners of Naval Enquiry, on any day of the week in which it was written, and it was signed by the commissioners.

The answer to this was likewise put in evidence having been first handed to Lord Melville, who admitted the signature. It was

dated the 8d of November, 1804, and agreed to attend the office of the commissioners on Monday, two days subsequent to the date.

Q. Refer to a precept directed to Lord Melville desiring a return of balances?

A. It is dated on the 17th of January, 1803, and requires his Lordship to make a return of the public money in his hands.

Mr. Whitbread. "It is, my Lords, a precept issued in the early part of the year 1803."

Q. To whom is it directed?

A. It was addressed to the Treasurer of the Navy.

The Lord Chancellor. "Before the witness retires from court, it will be necessary for him to deliver the books, in order that authentic copies may be taken of the different letters."

Mr. Whitbread, "They shall be handed to your Lordship. We now, my Lords, propose to call Mr. John Meaux.

Mr. John Meaux sworn, and examined by Mr. Whitbread.

Q. Are you an officer of the Board of Controul for the affairs of India?

A. I am.

Q. How long have you held that situation?

A. Since the year 1774.

Q. Who was the president?

A. Lord Sydney, and then Lord Grenville.

Q. Who succeeded Lord Grenville?

A. Lord Melville.

Q. How long did he continue president?

A. From the year 1784, to May 1801.

Q. Did you receive the salary of Lord Melville after it was annexed to the office?

A. No, I did not.

Q. Did you ever do so?

A, I do not know absolutely that I did. I received a sum of money at the India office, and I paid his salary at Messrs. Drummond's banking-house.

Q. Did you pay it to any other person?

A. Never.

The Witness cross-examined by Mr. Plomer.

Q. When was it Lord Melville commenced the duties of president of the Board of Controul?

A. From the moment of his first entering the office.

Q. When did he first enter?

A. In 1784, and continued until 1801.

Q. Did he do all the duty connected with his situation from 1784?

A. Yes, he did.

Q. Was not the duty of the office a business that required great and constant attention?

A, Very great and constant attention indeed.

Q. Did

Q. Did he not execute it for the first nine years without any salary?
A. Yes, he did without any salary whatever.

Mr. George Fennêl examined by Mr. Whitbread.

Q. What was your situation in the Navy Pay Office, in 1786?
A. I was in the accountant's office.
Q. Were you at the head of that branch?
A. I was.
Q Does the office continue its functions until the present time?
A. No, my Lords.
Q. When did its functions cease?
A. In the year 1801, altogether.
Q. When were they first interrupted?
A. As early as 1794 or 1795.
Q. Do you know the reason the clerks were then withdrawn?
A. They were taken away to assist in the other branches.
Q. How many did your branch originally consist of?
A. Nine, my Lords.
Q How many were at first withdrawn?
A. Only one at the commencement.
R. Were others withdrawn soon, or at any time afterwards?
A. In the course of two or three years.
Q. To what number were they reduced, before the functions of the office ceased entirely?
A. Four of them were employed in the secretary's branch.
Q. Did you then act alone?
A. I did.
Q. For how long did you act alone?
A. From 1798 to 1799.
Q. When were you finally removed?
A. From January, 1800, I was employed in the Pay Office.
Q. Were you removed to Chatham or any other out-port?
A. Yes, I was removed to Chatham in January, 1802.
Q. Then the accountant's branch was done away?
A. Yes, but it is now restored.
Q. When did the restoration take place?
A. I do not exactly know.
Q. How many clerks are now there?
A. Six besides myself.
Q. When were you sent back to resume your situation in the accountant's branch?
A. In February, 1803.
Q. Do you know, during the time Lord Melville was Treasurer of the Navy, where the public money was placed?
A. Part I believe at Messrs. Coutts's banking-house.
Q. Did you receive a draft for public money on Coutts's bank?
A. I did my Lords.
Q. Did you at that time know that this mode of drawing was contrary to the act of parliament?

Mr. Plomer. "I submit, my Lord, that this is not evidence; the witness is not to give his opinion upon an act of parliament."

Mr. Whitbread. "Then, my Lords, we have no farther question to ask the witness."

Cross-examined by Mr. Plomer.

Q. Did not the clerks of the accountants' office execute the business of their branch jointly with those of the Navy Board?

A. They did.

Q. Were not the clerks of the Navy Board withdrawn, before those of the accountants' office?

A. Of that I cannot be positive.

Q. Who had the superintendence and direction of the withdrawing?

A. The Navy Board.

Q. How many clerks were accustomed to assist in your office from the Navy Board?

A. I believe four.

Q. Were not all the eight clerks employed in the Navy Office withdrawn in consequence of the war?

A. Yes, my Lords.

Q. Were not those taken from the accountants' office, withdrawn from the same cause, and were they not absolutely necessary in other departments?

A. I cannot speak positively to that, my Lords.

Q. Could the clerks in the accountant's office have gone on with the duties alone, when those of the Navy Board were withdrawn?

A. Certainly not.

Mr. Whitbread. "We now propose to call, my Lords, Charles Bragge Bathurst, Esq. a member of the House of Commons."

Mr. Charles Bragge Bathurst was then sworn and examined by Mr. Whitbread.

Q. Were you, Sir, at any time, Treasurer of the Navy?

A. I was, my Lords.

Q. When were you appointed to that office?

A. In November, 1801.

Q. How long did you continue in that situation?

A. Until the beginning of 1803.

Q. Who was your Paymaster during that time?

A. Mr. Trotter.

Q. Where was the public money lodged at that time?

Mr. Plomer. "I object, my Lords, to that question being put to the witness."

Mr. Whitbread. "The Commons, my Lords, propose to shew by this evidence, that the business of the office could be conducted with perfect facility, though the public money was not lodged at Messrs. Coutts' or any private bankers; and this, I apprehend, they have an ample right to do."

Mr. Plomer. "I have no objection to that evidence."

Lord Chancellor. "I think that is admissible."

Q. When

Q. Where was the public money lodged at the time you undertook the duty of the Navy Pay Office?

A. I have no means of knowing.

Q. Did you discover during the period you were in the Navy Pay-Office, that the whole of the public money was not lodged at the Bank of England?

A. I was so informed by Mr. Trotter, my Paymaster.

Q. Did you receive the intelligence originally from him?

A. Yes, I did.

Q. When did you first become acquainted with the fact?

A. On my entrance into the office I understood in the commencement that it was a very small part of the public money which was deposited in the hands of a private banker.

Q. Did you order the discontinuance of the practice?

A. Yes, I did.

Q. At what time?

A. In the course of the summer of 1802?

Q. Was such order complied with?

A. It was.

Q. Were any remonstrances made to you officially, upon the discontinuance of the practice, previous to the final order being given?

A. They certainly were made to me respecting the convenience of keeping small sums of money at Messrs. Coutts, or at other private bankers.

Q. Did you know what sums of money were kept at a private bankers?

A. No, I did not.

Q. Did you receive representations on the inconvenience of the money being placed at a private bankers after the order was executed?

A. No, I did not.

Q. Do you know of any obstruction arising from the money being kept at the Bank of England?

A. I am aware of none,

Q. What is the Treasurer of the Navy's duty?

A. I must beg leave to state to the court, that I held the situation for only eighteen months, and it is now upwards of three years since, so that I may be under some difficulty.

Q. What duties did you execute as Treasurer of the Navy?

Mr. Plomer. "That is not evidence, my Lords."

Mr. Whitbread. "The Commons wish to shew what are the duties of the Treasurer of the Navy, and they cannot get at them better, than by calling persons who have filled that office. We say, that the office of Treasurer of the Navy is, an office of high trust and confidence, and that Lord Melville did not conduct himself properly in that situation; and, therefore, we call on the witness to shew, what were the duties, or what he conceived to be the duties; for perhaps he did not know what were the duties. I only wish to ask, what were the duties he fulfilled in the office, at the time the witness was Treasurer of the Navy. The counsel for the noble defendant have enquired into the duty of the officer at the head of the Board of Controul. The Commons say, that it is of great public importance, and they contend that they have a right

a right to shew what were those duties which Lord Melville has not duly executed. With this view, we are competent to enquire, what were those duties which he ought to have performed. As all public offices are affairs of great national interest, and as the situation of a Treasurer of the Navy is one of these, they have a right to see that the duties are properly executed, and he receiving a salary, ought to be compelled to fulfil them. For this purpose we examine Mr. Bathurst."

Lord Ellenborough. "It seems to me, that it is a perfectly competent question to be asked of the witness, in order to know the duties of the office."

Lord Eldon considered the question fit to be proposed.

The Lord Chancellor. "As far as he is acquainted with that particular department in the office, the witness may be interrogated."

Mr. Whitbread. "I am afraid, my Lords, I have taken up your time unnecessarily, merely by not properly shaping my question."

Q. What duties did you execute as Treasurer of the Navy?

A. The practice of my predecessors was to delegate all the powers of issuing and receiving money to the Paymaster; and, consequently, all the transactions of payment in my time were made by him. References in all cases were made to me, in particular circumstances, in the pay-office, as well as in the other branches, and in all the business conducted by the Paymaster.

Q. Then the Paymaster acted for you by power of attorney, without your interference as Treasurer of the Navy, in all the usual routine of business?

A. Yes, he did.

Q. Did Mr. Trotter continue Paymaster until the conclusion of your Treasurership?

A. Yes, he did.

Q. What induced you to order the money to be placed in the Bank of England?

Mr. Plomer. "That will not be evidence, it is only the motive of the witness.

Mr. Whitbread. "We have nothing farther to ask of the witness."

Cross-examination by Mr. Plomer.

Q. Were not payment of sums of money under 20s. constantly making to sailors and their relations?

A. It is not in my power to answer that question.

Q. From the course of office, was not that fact within your knowledge?

A. I have no means of being able to give a satisfactory answer; but from presumption I should suppose it was so.

Q. Did the payment of these small sums continue after your Treasurership?

A. I should suppose that they did, my Lords.

Q. By

Q. By whom were references made to you for the advance of money, while the business of the office was proceeding?

A. Always by the Paymaster; if he were absent, by Mr. Wilson, who acted for him

Q. Did Mr. Trotter continue your Paymaster the whole period of your Treasurership?

A. He did, my Lords.

The Witness re-examined.

Q. Was it part of your duty to controul the conduct of the Paymaster, and had you the power to do so?

A. It was.

Q. And in consequence of that power, you made the order for the discontinuance of the practice of keeping money in the hands of private bankers?

A. Certainly in consequence of my authority in the office.

Q. Do you know if the Paymaster ever made any small payments by his own hands?

A. The whole subject respecting payments was totally out of my department.

Q. Do you know if the payment of small sums of money was made by the Paymaster to sub-accountants?

A. I do not know.

Lord Suffolk. Do you know, if it was your duty to comply with the act of parliament?

The Lord Chancellor. "This knowledge of his duty to obey the act of parliament is totally immaterial to the case."

Mr. Whitbread. "We now, my Lords, propose to call Mr. Thomas Wilson,—but first I wish to ask Mr. Bathurst one question."

Q. Is the signature to this letter in your hand-writing?

A. It is.

Mr. Wilson sworn and examined by Mr. Whitbread.

(The letter identified by Mr. Bathurst was put into the hands of the witness).

Q. Are you an officer of the Navy Pay Office?

A. I am.

Q. How long have you been there?

A. From the year 1786.

Q. What situation do you now hold in the office?

A. Chief clerk to the Bill of Remittance branch.

Q. How long have you filled that situation?

A. A considerable time.

Q. I wish you to look at the signature to this paper, is it not in your hand-writing?

A. Yes, it is my Lords.

Q. What does it purport to be?

A. An account of the balances of public money in the hands of different cashiers of the accomptant's office?

Q. Was

Q. Was not that made out as a return to a precept from the Commissioners of Naval Inquiry?

A. Yes, it was.

Q. Is there not an erasure just under your name?

A. It certainly appears to be so.

Q. Did not you write something under your name which has been erased? What are the words erased?

A. The name of Alexander Trotter.

Q. Did you make out that account?

A. I did.

Q. Why did not Mr. Trotter?

A. Because he was not then in the office.

Q. What is the date affixed to it?

A. There is no date on either side.

Q. What was the date of the letter accompanying, and transmitting that account?

A. It appears to be the 18th of June.

Q. How long had Mr. Trotter been absent, when that return was made to the precept, and what was the time of his return after such absence?

A. I do not precisely recollect.

Q. Do you know if it was the second of February?

A. I cannot swear that it was, I only presume so.

Q. Did Mr. Trotter come to town on the day that account of balances was made out?

A. I believe so.

Q. Did he arrive on the day the return to the precept was made?

A. Yes.

Q. Were you confidentially employed by Mr. Trotter?

A. Yes, I was.

Q. You corresponded with him on matters of business as his agent, did you not?

A. I was not his agent, I merely supplied his place during his absence.

Q. Do you know where he was, some days prior to the return being made?

A. In Edinbugh.

Q. Do you recollect if the precept came during Mr. Trotter's absence in Scotland?

A. I believe it did.

Q. Did you transmit an account of its receipt to Mr. Trotter in Scotland?

Mr. Plomer. "Almost every question that has been asked the witness has been illegal. What can the correspondence of Mr. Wilson and Mr. Trotter have to do with the present case? It is the correspondence of two friends."

Mr. Whitbread. "We wish to shew you, my lords, that Mr. Trotter was in Scotland, and that a correspondence was kept up with him during his absence. He arrived in London the day the return was made to the precept of the Commissioners of Naval Enquiry. The evidence is to bear on that point, and we make it evidence, in order to support that part of our case."

Mr,

Mr. Plomer. "If any thing turn on the point where Mr. Trotter was, and it be proper to prove it, it is necessary that persons should be produced who saw him in Scotland."

Mr. Whitbread. "Whether it be proper or otherwise, is for the Commons to determine."

Q. To what part of the kingdom were the letters directed?

Mr. Plomer. "That I submit, my lords, will not be competent evidence of the fact."

The Lord Chancellor. "You can enquire of Mr. Trotter himself."

Mr. Whitbread. "We wish, my lords, to shew, that Mr. Trotter had, at this period, no controul over the public money, but that he, as Paymaster, trusted it out of his own hands into those of another. We desire to prove that Mr. Wilson was invested with authority by Trotter. It was afterwards, perhaps, necessary to refer to Mr. Trotter, who swore he had given him such authority."

Mr. Plomer. "What authority or power Mr. Trotter parted with to another person, or whether there were any impropriety in employing the witness, is not now the question: we are not trying Mr. Trotter, but Lord Melville. You must shew that it was by the authority of the defendant, or what can it have to do with the case? It is quite immaterial with respect to the present enquiry."

Mr. Whitbread. "The Commons contend, that they have a right to shew any instances where a public officer has not properly performed his duty; and farther, to prove what were the consequences of such misconduct. Mr. Trotter swore that he gave the authority to the witness, and a question to be determined is, whether such authority were acted upon."

Lord Ellenborough. "The consequences which result from the misconduct of an individual, as the Paymaster, is not evidence to affect Lord Melville, unless it can be shewn that he was cognisant of the fact that such authority was given.

Mr. Whitbread. "I believe, my Lords, the Commons have shewn, or if not, they can shew, that Mr. Wilson paid public money to Lord Melville; and the defendant must then have been aware that that could not have been done without authority from Mr. Trotter. That fact will bring it home to his Lordship: it was a transaction respecting 40,000l. which amount was taken from the public money.

Q. Do you recollect any transaction with regard to the sum of 40,000l. in the year 1796, in which Lord Melville had any concern?

A. I do.

Q. State it to the Court.

A. Lord Melville sent for me, and desired to know whether any sum might be conveniently spared from the public money. I told him there

was 40,000l. which he might have, and he desired me to bring it accordingly.

Q. Did you act by Lord Melville's direction?

A. Yes, most certainly.

Q. Was Mr. Trotter in London then?

A. No, I believe not.

Q. Was he at the Pay-Office?

A. No, he was not.

Q. Did you make communication of this transaction to Mr. Trotter by letter?

Q. Yes, I did.

Q. Did Lord Melville know that you had authority from Mr. Trotter to draw on the public account?

A. Yes, he did, without doubt."

Q. What was the mode in which you conducted the business for Mr. Trotter, subsequently to this transaction; and in what way did you draw money from the Bank of England, or from Messrs. Coutts?

A. For the Bank of England I had blank checks; but for Messrs. Coutts, I signed "Thos. Wilson, per Alex. Trotter."

Q. Did you act under authority from Mr. Trotter?

A. Yes, I did.

Q. To what extent?

A. To a very considerable extent.

Q. Are you conversant with the duties of the Navy Pay Office?

A. I am, with the general mode in which the business is transacted.

Q. Is it not the usual practice for the Paymaster to make small payments to the sub-accountants?

A. He makes no payments, but in large sums.

Q. What is the nature of the Exchequer fee money, as distinguished from the other money of the office.

A. I always understood it to be the practice of the office, to draw certain sums of money from the Exchequer, for the purpose of paying different small amounts.

Q. Had you the custody of the Exchequer fee-money?

A. I had.

Q. Did you derive any profit or advantage from it?

A. Yes, I did.

Q. What was the balance of the amount left in your hands?

A. It never exceeded 6000l.

Q. Did the profits of it never produce 300l. a year?

A. It is impossible for me to say?

Q. When was the Exchequer fee-money delivered into your care?

A. Some time about the year 1800.

Q. How long did it continue in your possession?

A. Until the Treasurership of Mr. Canning.

Q. From whom did you receive the Exchequer fee-money?

A. From Mr. Trotter.

Q. Is not the Exchequer fee-money, always considered a fund totally distinct from the other funds of the office?

A. Yes.

Q. Was any other payment made to you, but that of the Exchequer fees?

A. None but very small amounts.

Q. Did

Q. Did you ever converse with Lord Melville on the business of the office?

A. Never.

Q. Do you know if Mr. Trotter had any public money at Messrs. Coutts'?

A. Yes, he had.

Cross examined by Mr. Plomer,

Q. Was the 40,000l. the same sum of money which was afterwards the subject of public enquiry in the House of Commons?

A. I believe it was.

Q. Are the small payments which are made in the office, distributed by the hands of the paymaster himself?

A. No.

Q. By whom is the money paid to sailors in London?

A. Those payments are made by the allotment branch of the office.

Q Are there not also small payments, for wages made by another branch?

A. I do not know from my own knowledge; but small payments are made to many sailors.

Q. Do any of these sums which are paid in great numbers exceed 20s.

A. No.

Q. Do they not occur daily in considerable numbers, in the allotment branch?

A. I believe so.

Q. To whom are they paid?

A. To sailors, and their wives and children.

Q. From whom is the cash supplied, by which these payments are made?

A. I believe, in the first instance, the Paymaster advances a certain sum of money, from which the distributions are made.

Q. Are they always paid in cash?

A. I believe so.

Q. Is this done at the present time?

A. I think so.

Duke of Cumberland. Q. Can you state that Lord Melville was acquainted that the trust reposed in you, was of such a kind that Mr. Trotter left you blank drafts?

A. I never had any conversation with his Lordship on that subject.

Q. Are we to understand you, that you are not able to swear that Lord Melville was not privy to the trust?

A. I cannot speak more positively than I have already done.

Q. Can the witness swear, from his own knowledge, that Lord Melville was acquainted with the trust?

A. I cannot swear, from my own knowledge, as no conversation ever passed between his Lordship and me regarding it.

Q. Had you the same trust in the Treasurerships of Mr. Bathurst, Mr. Ryder, and Mr. Canning?

A. Yes, I had.

Q. Can you swear that they were acquainted with it?

A. No, I cannot.

Lord Lauderdale. Q. Was the draft upon which you obtained the 40,000l. from the bank of England, a draft for the precise sum?

A. I cannot correctly answer that.

Q. Without the drafts, could you have obtained the money?

A. I do not know.

Q. Are you certain that the 40,000l. was drawn from Coutts's house, and not directly from the Bank of England?

A. I cannot swear to that, I believe it was drawn from Coutts's.

Lord Stanhope. Q. At what time was it you had the conversation with Lord Melville respecting the 40,000l.?

A. On the 30th of April.

Q. Did Lord Melville ask you, if a certain sum of money could be spared from the public account?

A. Lord Melville did put the question to me, to the best of my recollection.

Q. Did Lord Melville desire you to propose the question to Mr. Trotter, or direct you to bring the money yourself?

A. Lord Melville told me to bring it, Mr. Trotter being then in Scotland.

Q. Did Lord Melville propose to give you authority to receive it, or leave you to your own?

A. I made no communication of the circumstances to him at all.

(Lord Radnor desired that the notes taken by the short-hand writer, of the conversation between Lord Melville and the witness, should be read, which was accordingly done. His Lordship then proposed the following questions.)

Q. Was the sum of 40,000l. first mentioned by you or Lord Melville, in the conversation you had with him?

A. I first spoke of it.

Q. Did you mention that the whole 40,000l. could be spared?

A. I did.

(Lord Suffolk proposed that the short-hand notes should be again read.)

Lord Mulgrave, Q. Was your situation such as pointed you out to be the person to supply Mr. Trotter's place in his absence?

A. Yes, certainly, from my place in the office.

Q. In any other instance has such a delegation been necessary; or was it done by power of attorney?

A. No, under no such circumstances.

Q. Having said that this 40,000l. was first mentioned by you to Lord Melville, and not Lord Melville to you, I wish to know if the books were then with you?

A. No, my Lords.

Q. Were there two conversations, or only one between you and Lord Melville?

A. Only one, when I told him of the money.

Q. Previous to the time when you mentioned that the 40,000l. could be spared, had you made any examination of the books?

A. No.

Duke

Duke of Kent. Q. Was this information given verbally, or did you make a communication to the defendant in writing?

A. No communication was made in writing.

Q. Did you know when you went to the defendant, for what purpose you were going?

A. No, I did not.

Duke of Norfolk. Q. Had you authority to draw on any account but for the private use of Mr. Trotter?

A. Certainly I had for the public service.

Q. Had you authority to draw for any other purpose?

A. For Mr. Trotter's private account.

Q. Had you any other authority but for the public service, and for the private account of Mr. Trotter?

A. None.

Q. You never drew but for them?

A. Never.

Lord Derby. Q. To whom did you pay the 40,000l.?

A. I do not know into whose hands it was put.

Q. Did you obtain any receipt or acknowledgement?

A. No, I did not.

Q. In what name did you enter this sum in the account?

A. I kept no account at all of it.

George Swaffield called and examined by Mr. Whitbread.

Mr. Whitbread. This gentleman, my lords, it has been before said, has been sixty years in the office.

Q. Has the public money, during the time you have been in the office, been kept any where but in the Bank of England, or in your immediate possession?

A. Not till of late years.

Q. Of late years has any part been kept at the banking house of Messrs. Coutts?

A. It was the only private bank we made use of.

Q. Who placed it there?

A. Mr. Trotter required it.

Q. Where you willing to do it?

A. I did it reluctantly.

Q. Did you find any convenience from having the money at Messrs. Coutts?

A. None at all.

Q. Did it produce confusion in your accounts?

A. In two instances. I was rather perplexed about it.

George Tierney, Esq. called.

Mr. George Tierney, in this place, as a member of the House of Commons, remonstrated on the impropriety of his appearing in the witness box.

The Lord Chancellor. "There can be no difference between one witness and another in their examination. We can hear no argument from a member of the House of Commons. If he be to be examined as a witness, he must stand in the proper situation."

Mr.

Mr. Wilson being recalled, some papers containing matters of account, were placed in his hands, which he said were in his own writing, and that the calculations on them were made by him. These papers were a return to a precept of the commissioners of naval enquiry, directed to the officers of the Pay office.

Mr. Tierney now appeared in the witness box, and being sworn, observed, that he had no personal motive for wishing to give his testimony from the place where he had been seated as a member of the House of Commons; but he thought that he should have been deficient in the respect due from him to the House, if he had not noticed the circumstance.

Examined by Mr. Whitbread.

Q. Were you at any time Treasurer to the Navy?

A. Yes, from the year 1803 to 1804.

Q. Did you execute the duties personally?

A. All I did was to give powers of attorney to various persons, for the execution of the office.

Q. Who was your paymaster?

A. I gave a power of attorney for paymaster to Mr. Alexander Trotter, in the first instance, and I afterwards removed him and appointed another gentleman of the name of Latham.

Q. Had he full authority to draw for all public cash?

A. Yes, he had.

Q. Did he act in that office with the same power as all the preceding paymasters?

A. He did.

Q. In the absence of Mr. Latham, who would have executed the duties of the office?

A. One of the inconveniencies I found was, that in the absence of the paymaster, there was no other person who had authority to draw for the public money.

Q. Had any other officer authority to draw, excepting, first Mr. Trotter, and next Mr. Latham, as paymasters?

A. No other person whatever.

Q. Was there any alteration which took place while you were treasurer?

A. Yes, a very material one, in the department of Mr. Latham. Mr. Trotter stated to me, that it might be convenient for messengers (interrupted by)

The Lord Chancellor. "What Mr. Trotter said can never be evidence."

Mr. Whitbread. Q. What was the alteration that took place?

A. It had been the custom, before I came into the office, for the sub-accountants to state what sums of money they should want; upon this representation, a draft was given them upon the Bank of England. This, however, I remedied.

Cross-examined by Mr. Plomer.

Q. Did the sub-accountant keep any official or private account of the money at the Bank?

A. I know

A. I know of no other account but of the public account.

Q. Was it usual to keep an official account of the public money at the Bank of England?

A. I know of no other account, but I cannot tell what individuals might do for their own convenience.

Q. Did it continue to be the usual practice to make small payments at Somerset House after the time of your coming into office?

A. No alteration was made in any thing but what affected the transferance of money from the Bank.

Q. Do you know of such payments taking place?

A. I know there were payments of that kind, but I never saw them.

Q. Have you any knowledge that such payments did take place?

A. I know it as well as any thing I have never seen.

Q. From time to time was the reference made to you?

A. Yes, where any particular difficulty occurred; but the detail of the business that was executed by the paymaster, and the receipt and payment of money I never had any thing do with.

Q. The common course of business then you never interfered with?

A. No, certainly.

Mr. William Ashley Latham sworn, and examined by Mr. Whitbread.

Q. Were you paymaster to Mr. Tierney?

A. I was.

Q. Did you act under the ordinary power of attorney?

A. I did.

Q. Were you accustomed to make payments yourself personally, or did you issue the money to the sub-accountants?

A. I always gave the money to the sub-accountants.

Q. Did you delegate your power to another person?

A. No.

Q. Did you practice the carrying money from yourself to the sub-accountants by write-off?

A. Yes, according to each head.

Cross examined by Mr. Plomer.

Q. How long did you continue in the office of paymaster?

A. Ten months.

Q. Were you absent during that time, from sickness or any other cause?

A. I was absent from illness once with my family about a week.

Q. Who executed the business during that time?

A. What was necessary particularly to be attended to by me, was sent to my house in Brook-street.

Q. Was there no interruption in the execution of your duty, but that week's sickness?

A. No, none.

Mr. Whitbread. "We now, my lords, propose to put in a paper in confirmation of evidence adduced yesterday, respecting a certain loan made by Mr. Mark Sprott.

The paper being produced was read by the clerk.

Mr.

Mr. Whitbread. "This document, my lords, respects a sum in the Loyalty Loan, standing in the name of Mr. Henry Dundas, and orders Messrs. Coutts to transfer it to the name of Mr. Mark Sprott."

"I shall now call your attention to another instrument respecting a sum of 13,500l. East India Stock, asserted by Mr. Trotter to have been under his control. The paper is in the hand-writing of Mr. Montague Lind, and I shall bring Mr. Francis Lind to depose to the signature."

This being established, the paper was read. It appeared to be a direction from Mr. Montague Lind to the East India Company to transfer the sum of 13,500l. into the name of Mr. Mark Sprott.

Mr. Plomer. "This, my lord, is no evidence in the present case."

The Lord Chancellor, "It is the declaration of Lind, coupled with the transfer."

Mr. Plomer. I do not object to it, my lord.

Mr. Whitbread. "I wish to shew your lordships that this direction was acted upon, and that Mr. Mark Sprott received the money; I shall, therefore, call that gentleman. He was asked yesterday to give us some information as to the draft, but he had no recollection of it, and had forgotten his book."

Mark Sprott was then called, and examined by Mr. Whitbread.

Q. Look at this book, sir, and inform the court, if by refreshing your memory with it, you can tell us if you received the sum of 14271. 11s. 7d. by a draft?

A. I received it in Bank notes and odd cash, which I put into my pocket.

(A paper was put into the witness's hand)

Q. Is the signature to this document your own hand writing?

A. Yes, it is.

(This paper, on its being read, appeared to be a receipt of Mr. Mark Sprott, for 20,222l. 4s. 5d. as security for the advance of 20,000l.)

Q. Did the stock, transferred into your name, constitute a part of the security for the money furnished by you?

A. I presume it did, but I have no recollection of it.

Q. Have you read that receipt?

A. Yes, I have, but I have no more recollection of it than a child unborn?

Cross-examined by Mr. Plomer.

Q. Had you any interview with Lord Melville in Scotland?

A. No, I never saw his shadow there.

Q. Did you see either of his sons there?

A. No. I never saw any of them, or had any *communion* with them.

Mr. Whitbread. "We now propose, my lords, to read a direction from the defendant to Messrs. Coutts and Co. to pay the balances due to the public stock on his first treasurership."

This

This document was put in, and was in the following form :—

" *Grosvenor Square, 22d Nov.* 1803.

" Messrs. Coutts and Co.

" Be pleased to pay on my account five thousand two hundred and fifty-seven pounds, two shillings, and ninepence farthing, being the balance due in my first Treasurership.

(Signed) " MELVILLE."

Mr. Whitbread. " I shall next, my Lords, call Mr. Cobb, who was before you yesterday, in order to shew that it was in the power of Lord Melville to pay the balances into the Exchequer at any period before he actually did do so."

Mr. Plomer. " That, my lords, has already been proved."

Mr, Whitbread. " Then, my Lords, we have no wish to trouble you again with the same evidence.

Mr. Giles. " We shall now, my Lords, produce a draft for 2000l. drawn by Mr. Douglas, in favor of Mr. George Swaffield; and we shall prove, that he never received any money for the draft, but that 2000l. was paid on account of Lord Melville into the Bank of Messrs. Drummonds."

Mr. George Swaffield recalled, and examined by Mr. Giles.

Q. Was this draft drawn by Mr. Douglas?

A. Yes, it was.

Q. Was it signed, and filled up by him?

A. The whole of it is in Mr. Douglas's hand-writing.

Q. Did you receive payment for it?

A. No.

The draft was here read. It was dated the 25th of May, 1785, for 2000l., and was signed " Andrew Douglas."

Mr. Simpson sworn and examined by Mr. Giles.

Q. Were you a clerk in the Bank of England in 1785, and was the draft which I now put into your hands paid by you?

A. It was.

Q. Can you inform us from any mark in your hand-writing, if it was paid in Bank notes?

A. It was paid in Bank notes.

Q. Can you inform us in what notes it was paid?

A. I cannot.

Q. Will it appear in any of the books which have been destroyed?

A. It would appear in the books.

Q. Have you any books in the Bank to establish the fact?

A. I do not know.

Q. What kind of books are they, or are there any?

A. There were books, but I do not know whether they could be found now or not.

Mr. Giles. "I dare say, my Lords, they were destroyed; but I will put it out of all doubt by calling a witness to prove it."

Mr. Rippon examined by Mr. Giles.

Q. In what books, if there were any, in 1785, would it appear, what particular notes were given in payment for this draft?
A. There were books.
Q. Are they destroyed?
A. Yes, they are not in existence.
Q. When were they destroyed?
A. They were destroyed under a warrant from the Bank Directors.

Mr. Charles Drummond examined by Mr. Giles.

Q. You are in the house of Messrs. Drummonds?
A. I am.
Q. Can you by reference to any books, say, in what notes this sum of 2000l. was paid into your bank?
A. Yes, I can.
Q. By what book?
A. By the waste-book, which I hold in my hand. It appears to have been paid in by Mr. Andrew Douglas to the credit of the Right Honorable Henry Dundas, in two notes of 1000l. each.

The Lord Chancellor. "The books must be left, in order that they may be entered, now there is evidence upon this head."

Mr. Whitbread. "We now propose to call a witness on the subject of the release; and for that purpose shall produce Mr. Gibson, of the Signet Office in Scotland.

Mr. *Gibson sworn and examined by Mr. Whitbread.*

Q. Are you a writer of the Signet-Office in Scotland?
A. Yes, my Lords.
Q. Are you accustomed to the transaction of public business?
A. Yes, I am.
Q. Are you conversant with drawing releases between parties?
A. I believe, I am.

The release put into the hands of the witness.

Q. Is the clause introduced into that release the usual clause?
A. Yes, it is.

Mr. Whitbread. "We have no farther evidence upon that subject, my lords: but there is a point which has come to the knowledge of the managers within these few minutes; it consists of two papers. We now intend to put in attested copies of the Commons' journal, and for this purpose shall call Thomas Beverly Western.

Mr.

Mr. Western sworn and examined by Mr. Morris.

Q. Have you examined the printed journals you hold in your hand with the originals of the House of Commons?

A. I have.

Q. Have you the presentation of the 3d report?

A. Yes.

Q. The entry of the presentation of the 8th report?

A. Yes.

Q. And the entry of the order for bringing in the act of parliament?

A. I have.

Q. The entry of the order for Mr. Dundas's carrying it up to the House of Lords.

A. Yes.

Q. And the resolution of the 19th of June, 1782?

A. Yes, my lords.

Q. Are they true copies from the original journals?

A. They are.

Mr. Whitbread. "The Commons, my Lords, here close their evidence for the impeachment of Lord Viscount Melville, with this reservation, that if any matters of importance shall come to their knowledge, they may have the liberty of producing further testimony. The evidence on the new fact, I have adverted to, is not yet perfect."

TENTH DAY.

SATURDAY, MAY 10TH.

MR. Whitbread. "The managers of the Commons presume that you will not think it extraordinary if they avail themselves of the claim they made yesterday for producing farther evidence. It will be necessary for the completion of their case, to call Mr. George Fennel, who examined the books which were before in evidence. He ascertained the balances of the Treasurer of the Navy, in the official books at different periods."

Mr. George Fennel examined by Mr. Whitbread.

Q. What was the Treasurer's balance on the 30th of June, 1784?

A. 3108l. 12s. 3d. comprehending the navy, pay, and victualling branches.

Mr. Whitbread. "Now I will put into the hands of the witness a paper, which is, I believe, in his own hand writing, and contains the progressive balances during the treasurership of Lord Melville."

Q. Is that your hand-writing? What is the purport of it?

A. It contains the balances under the treasurership of Lord Melville.

Q. Are the calculations in that paper made by you?

A. They are results from the books?

Q. Prepared by you?

A. Yes.

Q. Do these results, according to your computation, agree with the books?

A. They do.

The Lord Chancellor. Q. Have you examined all the foundations of these results?

Mr. Whitbread. "The account refers to each page in every book, and the result, he tells your Lordship, is his own, and in his own hand writing. The Commons propose to add this paper to the other documents in Court."

Cross-examined by Mr. Plomer.

Q. Does the account contain the balance of every month?

A. It proceeds, month by month, until the end of the treasurership of Lord Melville, until the 10th of April 1783.

Q What part of the account is quarterly?

A. From the year 1784.

Q. To what time?

A. To 1791.

Q. Is this account confined to the first treasurership of Lord Melville?

A. Yes, to the first account.

Mr. Whitbread. "These are monthly balances to the 10th of April, or rather to the end of April 1783. From that time it is the Ex Treasureship account, and carried on to the conclusion."

Mr. Plomer. Q. What succeeds?

A. It takes up the account again in Sept. 1795.

Mr. Whitbread. Q. "Will you repeat the aggregate balance in June 1784?"

A. I said it was 3108l. 12s. 3d.

Mr. Whitbread. "Will your Lordship direct your clerk to read the entry of the Bank-check book on the same day?"

Mr. Barlow read from the Bank book—"Old account 30th of June 1784, by Balance, New Acct. 8l. 12s. 3d."

Mr. Whitbread. "We have now shewn, my Lord, that at this date there was a deficiency of about 3100l. on the credit side of the Bank Account of the Treasury and Navy. Let the clerk now read the corresponding entry on the debit side."

Mr. Barlow. "To Balance from Old Acct. 8l. 12s. 3d."

Mr. Whitbread. "The Commons have now shewn that Lord Melville paid in his balance on his treasurership in June 1805, the amount being 5[illegible]l. and this was proved by the evidence from Messrs. Coutts' house, and by the direction to Messrs. Coutts to make such payment. The managers wish now to explain the circumstance under which that payment was made. When the Ex Treasurer's account was in the Auditor's Office, notice was given to Lord Melville, that if the balance was not paid, it was the intention of the Auditors to charge him with interest upon the account.

"The managers of the Commons also mean to shew, that in consequence of this notice, Lord Melville wrote a letter on the 5th of July, 180[illegible], stating the grounds which induced him to apply for relief against this charge of interest, and they mean further to prove, that previous to this date, the votes of the house were upon their table for the impeachment of Lord Melville."

Mr. Plomer. "The evidence now proposed to be given by the honorable managers, was not stated in their opening. I understood that the object was to enquire into the conduct of Lord Melville; as a public officer in the situation of Treasurer of the Navy, and not into these subsequent matters in the year 1805."

Mr. Whitbread. "The Commons contend, that they have a clear right to adduce this evidence. They have charged, in the year 1783, that the noble Lord derived advantage from the public monies in his hands, and this benefit was continued to the late period to which I have referred. This fact of recent date, having come to their knowledge, they propose to shew, the re-payment he made in 1805. Thay have a right to give evidence to this particular, as decidedly, as to every other part of their case."

Mr. Plomer. "The more regular way would have been, to have stated the objection at the proper time to this part of his Lordship's

Lordship's conduct, and then to have entered into the evidence on which that objection was founded in the ordinary course. By this mode of proceeding, the noble defendant is taken by surprize."

Mr. Whitbread. "The Commons have stated generally the condition of the account with the bank and with the sub-accountants. They have set forth the deficiency in 1786, which was another balance for which Lord Melville acknowledged he was accountable. They have now to expose a new deficiency upon the account, and they contend, that under the comprehensive term in which the charges are expressed, they have a right to give evidence to this farther deficiency."

Mr. Bernard Cobb, from the Auditor's Office, was called, and examined by Mr. Whitbread.

Q. What is that you have before you?

A. The duplicates of the accounts of the Right Honorable Henry Dundas, to 1783.

Q. What is the charge made in the accounts upon Lord Melville?

A. The amount stated is, 5111l. 2s. 9¼d.

Q. Was that all the charge made by the auditors on Lord Melville upon that account?

A. No.

Q. What was the further charge?

A. In consequence of an act of parliament, he was charged with interest, in the sum of 4530l. 5s. 5¼d. making the total demand 9641l. 8s. 2½d.

Mr. Plomer. "After what has been said, I apprehend, this amount must stand upon your Lordships' minutes, but I may be permitted to say, that the intention of this evidence is not to support any part of the charge before you. I understood, that the mere intention of the Honorable Managers, was to shew, what interest or advantage the noble defendant had made. What has been represented to your Lordships, is an irregular and illegal attempt on the part of the Board, to charge the noble defendant with interest. The subject of enquiry was, whether in this charge they had proceeded in a very consistent way with the act of parliament; it was a matter of grave and deliberate enquiry, and are we now to go into all this investigation, whether the board had or had not a competent authority to make this charge. Is it, my Lords, within the meaning of any of the articles of the impeachment, and is it proper for you to discuss it on this occasion? Whatever may be the fitness, the effect of this must be, to go into all the parts of the case, and to determine, whether, one Board controuling the other Board, acted within the limits of their duty and authority. But I am sure, that this would be leading into a new examination which has not been opened in any period of the proceedings. It is tacked in the tail of the former evidence, and we had not the smallest intimation respecting it."

The

The Lord Chancellor. "The proof only goes this length: that there was a debt of 5111l. 2s. 9¼d. and that there was an additional charge of 4530l. 5s. 5¼d. making a total of 9641l. 8s. 2½d. It farther shews, that this last charge, was for interest, which was remitted, no matter on what ground, and that the interest being so remitted, Lord Melville paid in the original balance."

Mr. Plomer. "I am perfectly satisfied to let it go to the extent your Lordship has stated."

Mr. Whitbread. "My Lord, our object is to prove, that Lord Melville made advantage of the public money, and we said he did so, in this particular instance. I shall now put in a letter to shew the circumstances, and the fact is, that the Commons could not mention the subject before, because until yesterday they had not become acquainted with it: yet if the Commons think proper to produce fresh evidence, they do not think it necessary to solicit the permission of the learned counsel on the other side."

Mr. Plomer. "All that I take the liberty of saying is, that we are not to be drawn into an enquiry which is not within the objects of the charge."

Mr. Whitbread. "I desire the clerk may read the letter of Lord Melville, to the Commissioners of the Treasury, and the indorsement thereon."

The Lord Chancellor. "Why the indorsement?"

Mr. Whitbread. "The clerk will read the letter."

Mr. Barlow then read the letter, dated the 18th of July, 1805, signed "Melville." It was addressed to the proper officer, and his Lordship said, that he had the honor to communicate to him, for the information of the Lords Commissioners of the Treasury, an inclosed copy of a letter, which he had received from the secretary of the Commissioners for Auditing the Public Accounts; and he trusted, that the Lords Commissioners would declare, that upon payment of the balance of 5111l. 2s. 9¼d. he should be relieved from the charge of interest amounting to 4530l. 5s. 5¼d.

The grounds upon which he founded his request, his Lordship said were, that for the term of seventeen years, the money was either in the Bank, or in the hands of the sub-accountants, and if, since the expiration of that time, it had devolved into his own hands, it was liable to be paid, whenever the claim should be made. His Lordship added, that the delivery of the account to the auditors, had been delayed two months only, from the pressure of business in the office of the Treasurer of the Navy.

Mr. Whitbread desired that the copy might be read, which was referred to in the preceding letter. It was accordingly read by Mr. Barlow, and it stated the balance of principal and the claim of interest.

The act charging interest in such cases, is the 39th and 40th of Geo. 3. cap. 64. The interest is to be charged at four per cent.

The letter stated that the ground on which this interest was charged, was, that the money had been in Lord Melville's hands, and

and indeed a larger amount, ever since the year 1780. It added, that unless the whole sum of 9641l. 8s. 2½d. were paid into the Exchequer, he would from that time be charged with interest at the rate of 5 per cent.

It was signed "Bernard Cobb."

Mr. Plomer. "I wish to ask Mr. Bernard Cobb a question or two."

Q. What is the section of the act in which this charge is founded?

A. It is the fourth section.

Q. This act passed in the year 1799, or 1800. What was the time when this attempt was made to charge Lord Melville with interest?

A. On the 10th of June, 1805.

Mr. Plomer. "Five years and a half, my Lords, posterior to the passing of the act."

The Lord Chancellor. "The act passed, I believe, in June, 1800, so that the distance of time is five years."

Mr. Plomer. Q. Is there any instance of a single individual, excepting the noble defendant, being charged under this fourth section of the act?

A. There is.

Q. What is the instance on the fourth section? If the witness knows one insulated example, I beg he may state it?

A. There was an instance of a comptroller being subject to the same charge under this section.

Mr. Plomer. "The honorable managers have led us, I think unnecessarily, into this charge, which your Lordships have heard was over-ruled by a superior authority."

Mr. William Huskisson sworn, and examined by Mr. Whitbread.

Q. Were you Secretary to the Treasury?

A. I was.

Q. Were you in that situation on the 20th of August, 1805?

A. I was.

(A letter was put into the hands of the witness.)

Q. Is that your hand-writing?

A. It is.

The Lord Chancellor. Q. What is that paper?

A. It is a letter to the Commissioners for auditing the Public Accounts.

Mr. Whitbread. "We propose, by this letter, to explain upon what principle the Lords of the Treasury acted."

The Lord Chancellor. "What was the conduct of the noble defendant, is material to be examined, but what were the motives of the Lords Commissioners of the Treasury, is not necessary to be shewn."

Mr. Whitbread. "We mean to say, that Lord Melville obtained his request."

The

The Lord Chancellor. "You are at liberty to state the balance upon the face of the books, and you may go into the evidence affecting that balance. By this evidence we find, that the balance is paid in without interest. What were these particular circumstances which attended the payment, their Lordships have no interest to enquire, as I conceive, in the discharge of their present duty."

Mr. Whitbread. "My Lord, the managers of the Commons are perfectly satisfied."

Mr. Plomer. "My Lords, the document tendered, not only states the fact of the charge of interest, but the grounds upon which that charge was made. What the honorable managers were attempting to go on with, were these grounds which have been determined and over-ruled. But the Lord Chancellor has decided, that they cannot examine into those controverted principles.

"Since you have been drawn into the introduction of these irrelevant matters on your minutes, I am sure, I need not say a word about the inconvenience of their remaining on your minutes, because with your lordships they will have no improper weight."

The Lord Chancellor. "Upon what grounds they did the act, with regard to these proceedings, is as immaterial as the colour of the clothes in which they did the act."

Mr. Whitbread. "I shall now refer to the entry of the 26th of June, 1805, on your Lordship's Journals."

Mr. Cowper, the senior clerk of the House of Lords, then read the message brought from the House of Commons by Mr. Whitbread on that day, when attended by several members, he stated to their Lordships, that the Commons of the United Kingdom, had commanded him to impeach Henry Lord Viscount Melville of high crimes and misdemeanors. (He then proceeded) "And I do here in their name, impeach the said Henry Viscount Melville of high crimes and misdemeanors, and I am desired to acquaint your Lordships, that they will exhibit particular articles against him, and make good the same."

Mr. Whitbread. "To complete the evidence in what respects the matters of account, the managers of the Commons are desirous that certain Bank balances should be put in."

Mr. Plomer. "I shall be glad to know, if the honorable managers of the Commons intend to introduce supplemental articles of impeachment, as well as supplemental evidence?"

Lord Ellenborough said, that the honorable managers were proffering proper evidence upon a competent subject, and that their conduct was not calculated to provoke any such observations.

Mr. Whitbread. Q. I wish your clerk to read the balance in the Bank book in the account of the Treasurer of the Navy of the 30th of September, 1784?

Mr. Barlow. A. 30th of September, 1784, to balance from old account, 15081. 12s. 3d.

Q. The same balance on the 31st of December of the same year?

A. 31st of December, 1784, to balance from the old account, 2508l. 12s. 3d.

Q. The same balance on the 31st of March, 1785?

A. 31st of March, 1785, to balance from old account, 1008l. 12s. 3d.

Q. The same balance on the 30th of June, 1785?

A. The 30th of June, 1785, to balance from old account, 5008l. 12s. 3d.

Q. The same balance on the 30th of September, 1785?

A. The 30th of September, 1785, to balance from old account, 4508l. 12s. 3d.

Q. The same balance on the 30th of November, 1785?

A. The 30th of November, 1785, to balance from old account, 2508l. 12s. 3d.

Q. The same balance on the 4th of January, 1786?

A. The 4th of January, 1786, to balance from old account 2508l. 12s. 3d.

Q. The same balance on the 30th of January, 1786?

A. The 30th of Jan. 1786, to balance from old account, 8307l. 4s. 4d.

Q. The same balance on the 31st of August, 1786?

A. The 31st of Aug. 1786, to balance from old account, 307l. 4s. 4d.

Q. The same balance on the 27th of February, 1787?

A The 27th of Feb. 1787, to balance from old account, 307l. 4s. 4d.

Q. The same balance on the 31st of October, 1787?

A. The 31st of Oct. 1787, to balance ftom old account, 907l. 4s. 4d.

Q. The same balance on the 29th of March, 1788?

A. The 29th of March, 1788, to balance from old account, 407l. 4s. 4d.

Q. The same balance on the 31st of May, 1788?

A. The 31st of May, 1788, to balance from old account, 3407l. 4s. 4d.

Q. The same balance on the 27th of September, 1788?

A. The 27th of Sept. 1788, to balance from old account, 407l. 4s. 4d.

Q. The same balance on the 30th of September, 1789?

A. The 30th of Sept. 1789, to balance from old account, 107l. 4s. 4d.

Q. The same balance on the 31st of December, 1789?

A. The 31st of Dec. 1789, to balance from old account, 207l. 4s. 4d.

Q. The same balance on the 30th of September, 1790?

A. The 30th of Sept. 1790, to balance from old account, 707l. 4s. 4d.

Q. The same balance on the 30th of December, 1790?

A. The 30th of Dec. 1790, to balance from old account, 2707l. 4s. 4d.

M. Plomer. "One single question to the counsel for the noble defendant, would have disposed of all this investigation of figures, for the balances would have been admitted."

Mr. Whitbread. "The managers have only to regret, that the learned counsel did not state their admission a little earlier. Their favourable disposition induces me to hand over to them an account, with which I hope they will concur.

Mr. George Fennel recalled, and examined by Mr. Whitbread.

Q. Have you examined and signed that account?

A. I have.

Q. Do you know that the account contains the results from the books of the Navy Pay Office?

A. The items were taken from the particulars in books of the paymaster.

Q. Are you referring to official books, and are you referring to the items in the accounts in such books?

A I am

A. I am referring to such books, and I have examined these results, and have found them to coincide with the results in those books.

The Lord Chancellor. Q. Are they all results founded upon your own examination?

A. They are, my lord, with the addition of the Bank notes.

The Lord Chancellor. "Have you any other evidence to produc: ?"

Mr. Whitbread. "Yes, my lord, in consequence of the cross-examination of the counsel for the prosecution, we wish that Mr. Meaux should be again called.

Mr. Meaux called, and examined by Mr. Whitbread.

Q. This gentleman was cross-examined with respect to the duties of the Board of Controul. I would enquire

Mr. Plomer interposing. "This witness was examined, cross-examined, and re-examined, which is all that is required with respect to any witness, and I should think that the hon. managers were not entitled to put new interrogatories, and revive new subjects. Is it consistent with any notion of regularity, will this method not prolong the matter for ever, if witnessses are thus to be examined day after day, and if the established rules of proceeding are thus to be abandoned?

Mr. Whitbread was about to propose a question, as to a pension of which Lord Melville is in the receipt, when the Lord Chancellor said, that under the circumstances in which Mr. Meaux was recalled, the question must be put by leave of the court. Mr. Whitbread then waved the question, observing, that as the learned counsel were disposed to shew how Lord Melville had served the public, he on the part of the House of Commons, was willing to expose how he was paid by the public.

Mr. Whitbread then said, that the managers wished to shew an entry in the Journals of the House of Commons, that Mr. Secretary Dundas was one of the persons ordered to bring in a certain bill on the 8th of May, 1793, and if the learned counsel on the other side had no objection, to prevent delay, he would put in an attested copy.

Mr. Barlow read from the Commons Journal the order for bringing in the bill for the better regulation of the office of the Treasurer of the Navy, and that Mr. Secretary Dundas, with the Chancellor of the Exchequer, and the Attorney and Solicitor General, do prepare and bring in the same.

Mr. Whitbread. "The managers of the Commons now propose to bring one or two witnesses for the completion of their case.

Mr. John Spottiswoode called and examined by Mr. Whitbread.

Q. Are you a solicitor in London?

A. I am.

Q. I were

Q. Were you in partnership with your father?
A. I was.
Q. Did your late father act as solicitor to Lord Melville?
A. I believe he did on some occasion.

Mr. Whitbread. "This witness may withdraw."

Mr. Hugh Warren sworn, and examined by Mr. Whitbread.

Q. Are you deputy Keeper of the Signet?
A. I am.
Q. Was Lord Melville Keeper of the Signet?
A. He was.
Q. Is he now so?
A. No.
Q. Who is the present Keeper of the Signet?
A. Mr. Robert Dundas.
Q. Was this in consequence of a reversion while Lord Melville was keeper?

The Lord Chancellor objected to this question.

Q. What is the income of the office?
A. It is uncertain: sometimes it is considerable.

Mr. Whitbread. "I have no farther questions to ask."

Cross-examination by Mr. Plomer.

Q. Do not the profits of this place arise from the sale of valuable offices?
A. They do.
Q. Does it not produce in some years many thousands, and in others nothing.
A. It is uncertain.

Several other questions were proposed by Lord Lauderdale, and the learned counsel, respecting the emoluments of the office, and the witness was asked if Lord Melville were not Lord Advocate of Scotland, and if the profits of the office were considerable, to both which questions he answered in the affirmative.

Mr. Robert Dundas was then sworn, and examined by Mr. Whitbread.

Q. Are you not in the receipt of Lord Melville's salary, as Keeper of the Privy Seal?
A. I am.
Q. Has there been any addition to the salary since the year 1800?
(Mr. Plomer objected to the question, and it was withdrawn.)
Q. Are you receiver for Lord Melville generally in Scotland?
A. I am.

Mr. Whitbread. "The last matter to which I shall call your Lordship's attention, is this. The Commons have produced in evidence the release between Lord Melville and Mr. Trotter of the 18th of April in 1805. They now mean to prove, that his Lordship was in London the 28th of April in that year, and took his seat in the House of Peers."

Mr. Plomer. "I do not know that any thing turns upon that."

Mr. Whitbread. "He took his seat upon that day, but as the proof is objected to, the Commons now close their evidence.

Sir

SIR SAMUEL ROMILLY.

"IT is now my lords, my duty to take a summary view of the evidence, and to comment upon the various particulars adduced before you.

"In every observation I make, I shall carefully bear in mind, and I entreat your lordships also to recollect, that the evidence to which your attention is directed, is the testimony only of the accusers. Until the noble defendant has been heard, until his witnesses have been examined, it is impossible to say that any fact has been established, however true it may appear in the present state of the enquiry. The witnesses on the other side may explain what is doubtful, may contradict what is inaccurate, and great injustice would be done in the course of such proceedings, if facts were received as determined without remembering that an answer is to come which may materially vary the case before the Court.

"There is no man accustomed to judicial investigation who is not sensible that a case may be proved and appear wholly unanswerable, and yet may be completely overturned in the course of the defence.

"It is not only my duty to comment upon the evidence, but to state the full force and effect of that evidence: to state in what I conceive no defence can possibly be supported, what are the crimes which appear to me irrevocably fixed upon the noble defendant, and what are the aggravations with which those crimes are attended.

"I am not only to do this in justice to those I have the honor to represent on this occasion; but in justice to Lord Melville himself: it is necessary, that the full force of the evidence should be shewn, that he may avail himself of it, in reply to the charges so maintained. It is fit I should do this, that this august Court may be fully aware of all that they may expect from the noble defendant, in the answer he is to give to our case, and that he himself may be completely apprised of the conclusions deducible from the evidence at its termination.

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" In the course of what I shall have to offer on this occasion, I must state many things which will be extremely mortifying to Lord Melville, and to those numerous and dignified friends who are connected with him. For myself, I may be permitted to say that it is a painful duty, which with my best exertions I will fulfil."

" In this impeachment, the commons have no personal enmity to indulge. They cannot avoid recollecting the honors which have been conferred on the noble defendant, the splendor in which he has lived, the royal favor by which he has been distinguished; and they reluctantly place in contrast, the humiliation of his present condition, called upon to answer the most serious charges, for crimes destructive of the welfare of his country. Under these impressions it is not with satisfaction, much less with exultation, that they appear before your lordships.

" We stand in a situation of great responsibility. We are sensible that the managers of the House of Commons, the witnesses which have been examined, nay, every person concerned in the cause, is at this moment with the eyes of the nation fixed upon them, and all of us may be said to be in a certain sense upon our trial.

" We are my Lords, as well as you the ministers of justice, we like you have a great and important duty to discharge, not when compared indeed with that which you will have to fulfil, when the proceedings here are concluded, and you are called upon to determine the fate of the noble defendant.

" I will now proceed to state the course I shall pursue. I shall first explain what are the crimes with which Lord Melville is charged, and shall next state the evidence applicable to the charges, and distinguish what appears to me to be certain and incontrovertible, from what is problematical.

" The crimes with which the noble defendant is charged, are of two kinds; they are offences against the common law, and also against positive institution. The first and tenth articles relate only to offences against the former, all the others are not only against the common law, but in violation of an act of parliament.

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"I shall now proceed to the consideration of the first and tenth articles, and an observation which has lately fallen from the learned counsel for Lord Melville, makes it proper that I should explain that the first and tenth articles are in substance the same, that there is a difference, excepting what regards the sum alledged; in all other respects the first and tenth articles may be identified, the evidence which applies to the one is referable to the other, and sending up this tenth supplementary article, although it has been represented as a proceeding of severity against the noble Lord, was only in fact doing, what fairness, honor, and humanity required.

"The first article charges, that whilst the noble Lord was Treasurer of the Navy, he took from the money in his Majesty's Exchequer entrusted to him in that character, the sum of 10,000l. or some other large sum of money, and did fraudulently and illegally convert the same to his own use, or other purposes than those of the Navy service.

"Subsequently to the time when the other articles were preferred, the messengers of the commons were informed that Lord Melville had possessed himself of larger sums than the 10,000l. particularly; but not exclusively adverted to in the first article, and they might have given evidence under that article alone, to all the sums so misapplied. But having distinguished the sum of 10,000l. they thought that his Lordship might not be so well prepared to meet the rest of the charge, and in candor to the noble Lord the tenth article was framed which would render him perfectly aware of the extent of their charges.

"To revert to the first article. It states that these sums he applied to his own use, or to some other corrupt and illegal purposes and to other purposes than those of the public Navy services of the kingdom, and that he continued this practice after the passing the act of parliament for the better regulating the office of the treasurers of his Majesty's Navy.

"This, my Lords, is the distinct charge in the first article.

"It can scarcely be necessary to explain that this is an offence against the common law. If an officer accept a salary

salary upon the express condition that he will not do a certain act, and he do that act, he is guilty of a breach of duty, which is an offence against the common law. Without dwelling a moment on this self-evident proposition, I shall proceed to examine the state of the fact, and observe upon the testimony which applies to it. But before I do this I will just take notice, that although I must unavoidably trespass much upon your Lordships time; it is not my intention to state all or even a great part of the evidence, to which you have given patient attention above eight days. And it appears to me the less necessary to take that comprehensive view, because in my conception the question depends upon a few points, which may be circumscribed within a very narrow compass, so that it will not be expedient to follow up the evidence through the multifarious items of account, in order to satisfy your Lordships' minds of the only matter into which you are to enquire, whether the noble Lord be or be not guilty.

" My Lords, we have thought it our duty, to produce all the materials, all the vouchers, and documents we could supply in the course of the evidence, in order to disclose to the utmost of our power the nature of the accounts and of the transactions; and you will not be surprised that we have done so, when you reflect that the party accused, being a public accountant and employing all the information of which he is in posssession for the defence, has taken especial care not to produce a tittle of evidence, a single scrap of paper to explain the circumstances of his situation and conduct.

" Although so much of your time has already been engaged in the narrative of this affair it will be necessary to recal your Lordships attention to a few of the particulars."

" You will recollect that his Majesty appointed commissioners, to enquire into the state of the public accounts, that these commissioners made certain reports in the progress of their duty, which were laid before the House of Commons, and the Commons House came to resolutions, after deliberating on these reports.

" My Lords, the third report has been read in evidence on this occasion, and you have found that the commissioners

commissioners when they enquired into the office of the Treasurer of the Navy discovered it to be inconvenient that large sums should be suffered to remain in the hands of that public officer, and that this practice required the interposition of authority to prevent its continuance. Their object was to express their sentiments, that the dominion over the money of the office ought not to remain in the hands of the Treasurer of the Navy. It is not necessary now to read the report; but your Lordships will see the particular inconvenience which the commissioners have noticed.

" In consequence of that communication the House of Commons came to the resolutions to which I have alluded on the 19th of June 1782, and one of them was thus expressed.—" It is the opinion of this committee, from henceforward that the Pay-master General and Treasurer of the Navy for the time being shall not apply any sum or sums of money invested with them or either of them for any purposes of advantage or interest to themselves, either directly or indirectly.

" Subsequent to this resolution his Majesty was pleased to grant an augmentation of the salary of the Treasurer of the Navy so large as more than to double the emolument he before received, for the express purpose that he should not make use of any of the public money.

" The Treasurer of the navy at that time was Mr. Isaac Barrè, and he received this increase of salary, and a warrant sanctioned this augmentation. The public money was now to be devoted exclusively to public services, and as a compliance in this respect from the officer was purchased at so high a price, it might be well supposed that the person receiving this emolument would have acted in obedience to this regulation.

" Mr. Isaac Barrè acted consistently with his duty in this respect.

" On the 19th of August of the same year, Mr. Henry Dundas was appointed to the same office and upon the same conditions, and his Majesty was graciously pleased by a royal warrant also to him, to secure the augmentation of the salary to 4000 l. a year. The warrant bore date on the 23d of October, and it states that this compensation, " We are graciously pleased to grant to him

clear of all deductions, in full satisfaction of all wages and fees, and other profits and emoluments heretofore enjoyed by former Treasurers of our Navy.

"The noble Lord was in the enjoyment of this ample renumeration during all the time he held this dignified office, and the only question before your Lordships is, if having received these emoluments he has complied with the conditions on which they were granted.

"I am sure from this state of the matter, that if as we must suppose from some questions which have been put by the learned counsel; if there be any attempt to draw your attention to the enquiry whether the public has sustained any loss by disobedience to this regulation, it will be an attempt to direct your minds to a subject wholly irrelevant. A person receiving so large a reward, is not to judge if the public suffer inconvenience by his deviation from the terms on which he is permitted to enjoy it. Are the public to give upwards of 2000l. a year, merely that the monies of the state should be untouched, and is this officer to obtrude his opinion, and disobey the injunctions he receives. What was he required to do in return for this advantageous arrangement? Nothing was added to his duties, he was required only to abstain from the use of the public money, and for this alone the sacrifice was made, and his salary was doubled."

"My Lords, it will be now my endeavour to shew that although he received this sum, he neglected the duty for which it was given, and applied the public monies to his own benefit. The fact is proved to you and I shall pass over the evidence without much comment.

"Lord Melville was appointed in August, and on the 6th of November the sum of 45,000l. was issued to him for the service of the Navy. On the 22d of the same month 50,000l. and shortly after 93,830l. were issued. These three sums considerably exceed 180,000l. and I find upon the evidence that no less than 11,000l. was intercepted in its course and directed into improper channels. Of the 45,000l. only 40,000l. was carried to the credit of Lord Melville at the bank: the remaining 5,000l. was received, but devoted to some purpose. I do not say that there is legal evidence that the whole

5,000l.

5,000l. was applied to the use of Lord Melville; but I say that there is evidence of its being devoted to some other than the legitimate purpose.

" Of the second sum: viz. 50,000l. only 47,000l. reached the Bank, and 3,000l. paid in bank notes was otherwise employed: and of the last sum only 90,000l. found its way to the Bank, nearly 4,000l. being withheld for some private use.

" You have had it in proof my Lords, that 5,000l, part of the first sum, which ought to have been carried to the Bank, was paid at the Exchequer in five bank notes of 1,000l. each; that the 3,000l. part of the 50,000l. was also paid in bank notes at the same office. With respect to this item we have not been able to trace the application which has been made of all the notes; we have shewn the purpose to which one of them was directed, and that another was devoted to the immediate use of the noble Lord. You will recollect, that one of the three notes was a few days after: viz. on the 29th of November 1782, paid into Messrs. Drummonds to the private account of the Right Honorable Henry Dundas; that part of it was carried to his credit in account (600l.) and the remaining 400l. was paid to himself or to some person sent by him in small notes, making 380l. together, and a further sum of 20l. Although the learned counsel have endeavoured to cast a cloud round the transaction; the fact was proved in a manner which can leave no doubt on the minds of your Lordships. It was proved by the clerk who received the note, that the sum was passed to the credit of Lord Melville; that there was no memorandum made and no receipt given, but the entry was made as if Lord Melville had himself gone to the shop and with his own hand paid in the money.

" It is not possible for the ingenuity of the human mind to suggest any mode in which the money could be paid by another person, unless it can be imagined that some man had carried the money, ordered it to be passed to the account of Mr. Dundas, was determined to have no credit or adventure from it himself, and not only to make this gratuitous payment; but to obliterate all traces of this extraordinary instance of generosity. To

say the least, your Lordships will consider this in the highest degree improbable.

" I do not trouble your Lordships in detail with the manner in which we have identified the notes, by the clerks of the Bank and of Messrs. Drummond, or yet perhaps more satisfactorily by the production of the notes themselves. You will however, remember that by the proper persons from the Bank, we have proved that no two notes for the same sum were ever made out of the same number and letter, and I reflect with satisfaction on the attention your Lordships have paid to the evidence which renders the repetition of this auxiliary testimony superfluous.

" Thus we have proved that one of the five notes being part of the sum of 50,000l. arrived at his Lordship's bankers, and was passed to his Lordship's account. We have proved likewise that another of these notes was paid into the house of Messrs. Moffat, Kensington, and Co. in discharge of a bill drawn from Edinburgh, on account of Lord Melville.

" With this distinct and incontestible proof before your Lordships, we confidently affirm that this money imprested for public services, was devoted from that service to the separate use and advantage of the noble Defendant; the one note to increase the credit of his private account at Messrs. Drummond, the other to discharge a particular bill against his Lordship, and there seems to my mind no possibility of resisting the conclusion."

" I must here say a few words on the conduct of the learned counsel with respect to the evidence. With regard to the sums received from the Exchequer, great objections were made to the form in which we endeavoured to substantiate the facts, and they were pleased to resist the production of public books in evidence before you, they appearing in defence of a public officer, in whose office these very books were prepared. This appeared to us so strange a proceeding, that we could only suppose it to be in perfect consistency with the spirit in which all vouchers were destroyed with a view to shut out all information from your Lordships.

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" I am aware that we shall be told again, that this forsooth was not the objection of Lord Melville, but of his counsel, in opposition to his warm and earnest intreaties. This my Lords, we are to be given to understand is one of those occasions on which they have obtained his most reluctant compliance. This perhaps is the first time in an enquiry of this grave nature, that the parts were so cast between the noble defendant and his counsel, that, you cannot at all discover on which to fix the imputation. The noble Lord affects himself to court enquiry, to be anxious to have his conduct fully investigated; and yet his learned counsel avail themselves of every formal objection to elude that enquiry.

" I shall notice the conduct of my learned friends also in another particular. In the cross examination of the witnesses, to the numerous matters of account they have particularly directed their questions, in order to ascertain if the witnesses had no recollection of the transactions, and deposed merely from their reliance on the accuracy of the books. If it were replied they had no remembrance of the transaction itself from which the entry was made; the learned counsel seemed to suppose that the proof was insufficient.

" If these gentlemen who advocate the cause of the noble Lord should contend, that the evidence we have given in this way, is not in itself full and complete; I will venture to say, that it will be one of the most bold and dangerous attempts before your Lordships to destroy the effect of all testimony. What, if a clerk make five hundred entries in the course of the day, is he at a great distance of time expected to speak to each particular entry as a matter of recollection! My Lords, the rules of common law, and of common sense, are not so much at variance as they would pretend. Instead of receiving additional strength, the evidence would have been much weakened if the witnesses had affected to recollect what had passed after so long an interval. There is not my Lords, a case which comes before a Court of judicial enquiry, which does not resort to the satisfactory form of evidence, when it is capable of being produced. Under a charge of forgery this is the usual proof, and what would be the extent of crimes,

crimes, and the evils consequent upon them, if this species of evidence were not to be admitted. On a thousand occasions the guilty must escape punishment if testimony of this kind were to be rejected.

" Clerks of solicitors are sometimes witnesses every day to a hundred transactions and instruments. Is it to be expected they should speak from their own recollection, and not from the confidence, that they would not fraudulently apply their own signature? In the 3d Term Reports there was a precedent exactly in point. It was a case in which it was decided, that where the witness had no recollection, the entry was sufficient. If the witness have not a clear recollection, the original books must be produced; but if he still retained the transaction in his memory, this production was not necessary. It is easy to dispose of such an objection.

Then we assert that this 2000*l.* was diverted from its proper channel by Lord Melville within a few months after the acceptance of the office. It will not be pretended that this sum was for his Lordship's salary. In the first place, his salary could not have reached that amount in so short a time; and in the next, your Lordships find Mr. Douglas had made other payments to the Treasurer on account of his salary.

" It is certainly not in the power of the Managers of the Commons to shew to your Lordships in the same direct and unanswerable manner the precise application of the other items I have named; but although we cannot expose the immediate purpose, yet we can make it evident that the amounts, instead of being in the Bank, were, by the permission of the noble Lord, employed in a way contrary to law.

" We have shewn, that on the 30th of April, 1783, the very month in which he quitted his first Treasurership, there was a balance against him of 29,408*l.* and that there was only in the Bank at that time 6,408*l.* leaving a deficiency of 23,000*l.* That sum was reduced by subsequent payments, on account of the Treasurer, into the Bank in June and July. On the 24th of June 1000*l.* was paid. In July two sums were paid in on the same account, one of 5000*l.* and another of 8000*l.* and we have proved that they were supplied from Messrs. Smith,

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Payne and Smith; that the former payment was in bank notes, which were carried to the Bank. In short, by various payments through the medium of Messrs. Muir and Atkinson, the balance due from the Treasurer was subsequently reduced to 7,600*l.*: that is, the difference between the official balance, which the Treasurer ought to have had in the Bank, and the actual balance he had in the Bank applicable to public services. We find then that all these sums, instead of being in the public repository, were at this period in private hands, and diverted from national purposes.

"Neither, my Lords, is it in our power to prove the actual progress of the private negotiation, and of the interest and benefit Lord Melville made by the alienation of these large amounts: It would be sufficient for us to make it appear, that he received some advantage, however small, from this great defalcation in the public accounts.

"Having now shewn the balance to be lessened to 7,600*l.* I shall shew its further reduction to 1,600*l.*

"In January, 1784, Lord Melville was appointed to the office he had before held, and at that time the balance remained 7,600*l.* The nomination to that office enabled him to discharge this balance, and you will find that it was so paid with the public money by a singular expedient. In March, 1784, he paid off a part of the old account by a transference from the new to the amount of 2000*l* Thus it stood at 5,600*l.* until the 24th of the next month, when another 1000*l.* was transferred. In a short time an additional 1000*l.* was transferred in the same way, and again another 1000*l.* until as early as the 30th of June following, the last 1000*l.* was transferred, making in the whole 6000*l.* alienated from the new account to the old, and diminishing the balance on the latter, to the item I have stated, of 1,600*l.*

"Before the public money imprested for the services of the navy can be so applied in the discharge of an old debt, it has been proved, that some steps must be taken. If such a transfer be made, from a new treasurer to an old account, it can only be done by application to the Navy Board, and under an order for that purpose. In this

this case, it has been shewn, that no such reference was made, and no such authority obtained.

" It may be proper here to remark, that the whole balance of 7000l. must be considered as remaining, and did in fact continue until his Lordship quitted the treasurership in May, 1800; and there was not a day from the month of January, 1784, when the differences between the Bank account and the Treasurer's official account, did not exceed that sum. The necessary conclusion is, that during this long interval when he held this office, that sum was applied to his own private purposes.

" We have now seen that by making up the old account in this extraordinary manner, a difference against the new Treasurer, in the new account, must have arisen of 6000*l.* Soon after the last transfer was made in the month of June, 1784, a draft was made by the Paymaster to Mr. Swaffield for 2000*l.* The name of Swaffield was employed, but the money never came into his possession. In May following, there was another draft for the like amount, under the same circumstances, making together 4000*l.* Then you find 1000*l.* paid into the Bank on the Treasurer's new account by a clerk in the office, who had received the amount on account of the salary of the Treasurer of the Navy. The 6000l. and the 4000*l.* make a deficiency against the Treasurer of 10,000*l.* and with this reduction of 1000*l.* the amount yet due is 9000*l.* Accordingly, we find an excess of that amount in the official balance, compared with the Bank balance, which was only 137,059*l.* 2*s.* To the 3d of November, the balance continued in this state: and in January following 1786, it was, that Mr. Trotter was introduced to the office of Paymaster.

" Upon this appointment Mr. Trotter had transferred to him the balance which remained against the former Paymaster. Your Lordships will recollect it was an inconsiderable amount. The monies in the Paymaster's hands are all appropriated to particular services, and are delivered over by the Paymaster, excepting a comparatively small sum which is applied to the payment of Exchequer fees. This balance, on the death of Mr. Douglas, was paid by the Executor to Mr. Trotter, the successor to the office. But at this time there was no balance in

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any distinct account, the monies were all blended in the Bank account, excepting what the Treasurer had himself withdrawn.

" Your Lordships will remember that I lately adverted to two different balances against Lord Melville, the one of 1,600*l.* in the old account; the other of 9,000*l.* in the new account. Mr. Trotter has told you that he examined the books and saw these balances: he added, that Lord Melville himself informed him, that besides the balance in the Bank, there was 10,600*l.* of the public money which he, as Treasurer, was to account for. Recollect, my Lords, that this was acknowledged by Lord Melville as a balance for which he was accountable.

" It might be necessary, perhaps, under other circumstances, to explain that these deficiences did not originate with the former paymaster, Mr. Douglas. You have it in evidence, that since his executor paid in the balance required, no demand was made upon his estate, although he has been now dead twenty-one years, and therefore nothing of that kind can be confounded with the question before your Lordships.

" I am sure, my Lords, it will not be necessary for me to trouble you any further with this part of the case: the confession of Lord Melville that he had the public money which he had received in his official character, and that he employed it to his own private use is decisive, and requires no comment.

" But this is not the only occasion on which the confession of the noble defendant will be available in support of these charges. He has told you that he had, in a distinct and separate sum, 10,000*l.* in his hands, and he never would reveal the application of it, from motives of public duty, private honor, and personal convenience.

" As to what was the object to which the 10,000*l* was applied, we are totally at a loss. We are at the same difficulty both as to the time and mode of its being taken, as to the purpose to which it was applied, for we do not find any distinct item of 10,000*l.* at least none unexplained in the progress of the account. If the noble Lord means to say that the sum of 10,000*l.* only was directed by him from its proper channel, we stand here

upon our own evidence, and confidently assert what that enables us to maintain.

"What! is Lord Melville a public accountant, entrusted with money, in the open face of day to declare that he has employed that money in a way he will not expose? This alone, we contend, is in itself a main violation of the law of the land. What! this accountant, the servant of the public, to tell that public, that he has given the money which they delivered to him for an express purpose to fulfil other designs, and not to reveal the motive which induced him to abuse their confidence.

"Where, my Lords, can we look for any justification of such conduct? Where can we find any apology for it? Was it authorized by the Sovereign? Was it by the usage of the state? Has it been customary with the Treasurer of his Majesty's Navy, to divert money, made over to him for certain objects of great importance, to other purposes, and then broadly to announce that he will not discover the time, or the occasion when this was done?

"No such vindication or excuse appears in the history of past times; and we charge him with misapplying the public money a second time not on extraneous and collateral evidence but on his own confession.

"We have been informed that the great safeguard of British liberties is, that the funds of the state should not be in the hands of its officers but for public purposes. The money voted by the representatives of the people is not withdrawn from the nation without its being distinctly stated what are the specific services to which it shall be directed.

"It is true, that in some peculiar cases ministers are empowered to devote certain sums to what are called secret services. But under what guard is this extraordinary privilege conceded? The minister is to swear that the money has been applied to public purposes. And, my Lords, will you endure, that this wall of protection should be thrown down, that these prudent maxims should be abandoned by a public minister from his own authority, merely because he is determined to elude all enquiry.

"The counsel have informed you that during the period

riod in which he has been employed in this office, a sum of the magnitude of 140,000,000*l.* has passed through his hands. Is the minister, entrusted to this enormous extent by the generous confidence of his country, to say, that he will set up his own conscience as the arbiter of right, and will not render a faithful account of the discharge of his duty to his employers?

"This officer has not even condescended to tell you that the money was thus transferred from its proper direction for beneficial purposes; he has satisfied himself with saying, that it is for public purposes. Money may be devoted to public purposes in a way most pernicious to the interests of the empire—most subversive of the rights of the people. What those purposes are, he exclaims, I will not declare. What! not to your country calling upon you to avow them? No, I never will disclose the application of your property!

"Where, my Lords, is this bold declaration made? It is in the face of the assembled Commons of Great Britain—it is in the very sanctuary of public liberty that he ventures to proclaim his misconduct.

"One would think that he would at least be prepared to shew that it was not for his own private emolument, that this money was extracted from the purse of the kingdom. But what does he do? Before he announces this to the nation, he takes care to destroy every vestige of evidence by which he can be detected.

"Let us see if he be consistent even in these general acknowledgments on the subject. We have seen what he was confident enough to declare in the ancient seat of British rights. What does he say in the presence of the Commissioners? Commissioners authorized by their country to audit the accounts of the kingdom. He tells them that he will not explain the transaction, not from motives of public duty or private honour, but indeed for a species of personal convenience sufficiently intelligible; because he will not criminate himself. When called before these Commissioners, his courage forsakes him; we no longer hear of public duty and private honour, but he shelters himself under an act of parliament, and tells them he will not satisfy their enquiries, lest he should be compelled to answer criminally at the bar of his country.

" Under this exposition of a plain and notorious fact, the Commons submit to your Lordships, that unless you give your countenance to a conduct in defiance of all that is decent, of all that is venerable in the state, there is an end of the case. If you do sanction it, all the liberties for which your ancestors have bled are to be resigned.

" I shall not trespass further on your time upon these articles, but shall now proceed to the other parts of the case. The remaining charges refer to the construction of a particular act of parliament, and therefore, without occupying your attention by pointing out the distinctions between each article, I shall shew the general nature of the crime which the senatorial regulation was intended to prevent.

" We first shew that Lord Melville has drawn out money not for the general service, but for his own private use. We then proceed to explain that he has derived emolument from the money so diverted from its legitimate object. On the first part of the case I have already insisted: the second is a violation of the statute as well as an offence against the common law, as I before intimated.

" We have proved that Lord Melville did derive such profit by transferring the money to private bankers; and we say he did so, by receiving advances of large sums through the medium of Mr. Trotter; and we assert, that it is a high aggravation of the offence that he destroyed all the papers which he thought could give evidence on this subject.

" I have mentioned, that in January, 1786, Mr. Trotter was appointed Paymaster, and then it was that Lord Melville took the lead in that legislative provision by which the abuses of his office were to be abolished. It was indeed highly gratifying to the nation, to see a person, who was himself in an official situation, thus step forward to prevent such abuses in the establishment over which he presided. A report was made by the Commissioners to whom I have alluded, called the Eighth Report. An act of parliament as early as the twentieth year of the king, and several subsequent statutes, were passed, " for appointing and enabling Commissioners to examine, take

and state the public accounts of this kingdom, and also for examining and stating in what manner, and at what times the receipts, issues and expenditures of the public monies were accounted for, and for considering of and reporting by what means the public accounts might in future be passed, and the accountants' compelled to pay the balances or monies due from them in a more expeditious, more effectual, and less expensive manner.

"We have seen that the Eighth Report I have just mentioned, was presented to the House of Commons, and it states that "the legislature have, in the last session of parliament, introduced into the office of the Paymaster General of the Forces, a regulation, which, as it seems to us, may be applied as beneficially to the office of the Treasurer of the Navy. The custody of the cash applicable to the navy services may be transferred from the Treasurer to the Bank of England, and the account only of the receipts and payments be kept in his office; all the sums now received by him, may be received by the Bank; sums from the Exchequer may be imprested to the Bank; sums directed by the letters of the different boards to be paid to him, may be directed to be paid into the Bank; all bills assigned upon him for payment may be paid, and all extra payments may be made by his drafts upon the Bank; the payment of the seamen, the artificers, and labourers in the yards, and the persons in the hospital ships, and on the half-pay lists, must be carried on in the same manner as it is now. These men cannot be paid by drafts, they must have cash, and with that cash the pay-clerks must be entrusted, as they are at present; and the Treasurer must continue to be responsible for them, as for officers of his appointment, and under his controul, but this will be no obstruction to the regulation. The money may be all issued to pay clerks by the drafts of the Treasurer upon the Bank, according to the requisitions of the Navy Board, in like manner as many of these sums are issued at this day; and upon the death or resignation of a Treasurer, the balances of his cash in the Bank, and in the hands of his pay-clerks, may be struck immediately, and carried over to the account of his successor. In this situation, the Treasurer neither receiving nor paying public money himself, can be

neither

neither debtor to, nor creditor of the public, except as far as he may be responsible for his clerks; on passing his accounts, the bill indorsed or requisition of the Navy Board, is both his authority, and voucher for his draft; the draft indorsed, is the voucher for the Bank to prove their payment.

" My Lords, you now see the whole object of Parliament before you, and it is extremely material that you should consider the terms of this report. The exclusive design of the act was to leave nothing in the power of the Treasurer of the Navy: as long as the statute was respected he could neither be a debtor nor a creditor of the state, and to prevent his interference with the monies for the transfer of which he was the official medium a large salary was assigned to him.

" You then find that leave was given to bring in the bill thus recommended by the weight and authority of these commissioners, and we have seen how far the Right Honorable Henry Dundas went on instrumentally in this business. The bill passed the House of Commons, and Mr. Dundas, then Treasurer of the Navy, was directed to carry it to the Lords and having proceeded thus far I must now advert to the provisions of the act itself.

"The first section enacts, That from and after the " first day of July, 1785, the Treasurer of his Majesty's " Navy for the time being, in all memorials to be by him " presented to the Treasury for money for navy services, " shall pray, that such sum as he requires may be issued " to the Governor and Company of the Bank of England, " on his account, and shall transmit with each memorial, " a copy of the letter or letters from the Commissioners " of the Navy, Victualling, and Sick and Hurt Boards, " directing him to apply for such sum or sums; in which " letter or letters, the said Commissioners shall, and they " are hereby required and directed to specify, for what " particular service or services the said money is wanted, " and shall also state the balances then in the hands of " the Treasurer of the Navy under each head or service " respectively; and the Commissioners of his Majesty's " Treasury for the time being, by their letter from time, " to time, shall direct the Auditor of the Exchequer, to " issue to the Governor and Company of the Bank of " England

" England on account of the Treasurer of his Majesty's " Navy, naming such Treasurer for the time being, the " sum for which such letter shall be drawn upon the un- " satisfied order at the Exchequer, in favour of the said " Treasurer, for which the receipt of the Cashier or " Cashiers of the said Governor and Company, shall " be a sufficient discharge; and all sums for which " letters of the Commissioners of his Majesty's Treasury, " shall be drawn, shall be issued to the Governor and " Company of the Bank of England, in like manner as " they have been heretofore issued to the Treasurer of " his Majesty's Navy; and all such monies to be issued " to the Governor and Company of the Bank of England, " shall be placed to, and on account or accounts to be " raised in the books of the Governor and Company of " the said Bank of England, and to be intituled, The " Account of the Treasurer of his Majesty's Navy, in- " serting the name of such Treasurer for the time being, " for Pay branch, Cashier's branch, and the Victualling " branch; and on receipt of all such monies at the Ex- " chequer, the Treasurer of the Navy shall immediately " certify to the Commissioners of the Navy an account " of the whole receipt under the respective heads of ser- " vice; and shall also certify to the Commissioners of " the Victualling and Sick and Hurt Boards, the particu- " lar sums received and applicable to those services res- " pectively.

Third Section—" And be it further enacted, that " from and after the 1st day of July, 1785, no money " for the service of the navy shall be issued from his " Majesty's Exchequer to the Treasurer of the Navy, or " shall be placed, or directed to be placed in his hands " or possession; but the same shall be issued and di- " rected to be paid to the Governor and Company of " the Bank of England, and to be placed to the accounts " abovementioned, according to the services for which it " is craved and issued.

Fourth Section—" And be it enacted, that the Trea- " surer of his Majesty's Navy, for the time being, by " himself, or the person, or persons in his office duly " authorised by the said Treasurer, from and after the " first day of July, 1785, shall draw upon the Governor

" and

" and Company of the Bank of England for all navy " services whatever, and shall specify in each, and every " draft, the head of service for which the same is drawn, " and no draft of the said Treasurer, or the person, or " persons authorised as aforesaid, shall be deemed as " a sufficient voucher to the said Governor and Com- " pany of the Bank of England, unless the same specifies " the head of service for which it is drawn, and has been " actually paid by the said Governor and Company of " the Bank of England.

Fifth Section—" Provided always that the monies to " be issued unto the Governor and Company of the " Bank of England, on account of the Treasurer of his " Majesty's Navy, shall not be paid out of the Bank " unless for navy services, and in pursuance of draft to " be drawn on the Governor and Company of the Bank " of England, and assigned by the Treasurer of his " Majesty's Navy for the time being, or the person, or " persons authorised as aforesaid, in which draft shall " be specified the heads of service, to which the sums " therein mentioned are to be applied; and which drafts " so drawn, shall be sufficient authority to the Bank to " pay such money to the persons mentioned in such draft " or to the bearer of them."

" Thus we find that the wisdom of Parliament directed that no money for the service of the navy should be issued to the Treasurer of the Navy, but to the Governor and Company of the Bank of England, and when the money arrived at this treasury it was not to be withdrawn unless the particular service to which it was to be applied was distinctly specified.

" My Lords, this statute made a most important alteration in the office to which the Noble Lord had been appointed; and this salutary measure seemed to give to the nation complete security, that the application of public money to private purposes from which so much danger was apprehended, would be discontinued. This effect seemed and appeared to be successfully produced not merely on account of the Act of Parliament, but because the framer of the statute was himself in the execution of the office to be performed. They saw with satisfaction a person in this situation because they had not merely

merely to trust in the dead letter, but they might repose themselves in the living spirit of the law, in the sage legislature, who in his executive duties was himself giving effect to these provisions.

"A few months only had passed over after this important revolution in the office, when a proposition was made by the Paymaster to transfer to any extent the sums in the bank into the hands of a private banker; from whence it might be immediately drawn out at pleasure, without specifying any of the services to which it should be devoted. This extraordinary proposal received the immediate assent of the author of the law I have read to you. From this moment the balances in the bank were reduced to nothing: Messrs. Coutts nominally had the money, but not really, for his shop was merely the road, somewhat circuitous indeed, along which it was conveyed to the Paymaster to fulfil his own private ends, and those with whom he was concerned.

"The balances at the risk of the public, at first in the calculation of these persons were trifling: they only amounted to 50,000*l.*; but the parties soon became bolder and the balances rose to one hundred, two hundred, and three hundred thousand pounds, and in the last year in which Mr. Trotter acted under Lord Melville, at the awful time when the Treasurer of the Navy quitted his station and it became necessary that he should make up the public accounts, Mr. Trotter had little less than half a million, he had upwards of 450,000*l.* under his dominion.

"While these great pecuniary transactions were conducting out of doors, your Lordships will remember what was the reduced condition of the balances within doors at the house of Messrs. Coutts. It was said that the sums were transferred to the private bankers, in order that it might be more conveniently disposed of for public purposes, yet scarce any thing remained there to be applied to any purpose whatever, and occasionally these bankers not only had nothing to supply the public necessities but were actually over-drawn. I will not detain your lordships with going through the periodical state of the account at Messrs. Coutts', but it is most evident that this argument of public convenience which was urged

for the transference of the account from the bank, was merely to conceal a vast project for lending out the public monies for private emolument, and for indulging in romantic schemes of extensive speculation.

"I understand we are to be told, my Lords, in defence of this Treasurer of the Navy, that he had no knowledge of any thing that passed in his office, that he entrusted all to the management of his Paymaster who was unfaithful to his employers, and with this simple statement the justice of your Lordships, that justice demanded from you by your country, is to be appeased. In the same breath we are to be informed of the great solicitude of Lord Melville for the public welfare, which was so excessive as to make him utterly indifferent to every thing else. How these palpable contradictions are to be reconciled, I leave to the ingenuity of my learned friends to declare, in any inferior hands the attempt must be wholly unsuccessful.

"It is in evidence before you, that his Lordship had a large salary merely for a nominal superintendence of a great office. You have seen that he had no duty to perform, he was to receive nothing, to pay nothing, he had only a kind of ostensible authority over an officer called his Paymaster, and the defence to be set up is, that this Trustee of the public has totally neglected the momentary duties he had to perform.

"I will make another observation on this species of defence---

"You have on your recollection the large sums of public money (whether with the knowledge of Lord Melville, or otherwise, is not at present material) which were directed to relieve the exigencies of his Lordship. I allude to the India Stock, and the Loyalty Loan, paid for by the public money: the debts to Messrs. Forbes and Co. and to Messrs Mansfield and Co.; the 7000*l.* Reduced Annuities, all supplied from the same abundant fountain.

"You are told that Lord Melville was indolent in his private affairs, negligent and careless almost to the extreme of folly, but with regard to the public he was quite the reverse; there he was all energy and activity, all vigilance and wisdom. It is singular, if this be true, that when he

he used none of these exertions, and exercised none of this sagacity, all was prosperous. His industry, however it might be directed, seemed not to be so wholly diverted from his private advantage. His debts were paid to an extravagant amount, he had Indian Stocks, Loyalty Loans, and Public Funds, as it were, spontaneously rising before him; if this rapid growth be not to be attributed to his own alacrity and discretion in his own private affairs. With respect to his anxiety about public concerns, are we to be told of his diligence and care when he admitted half a million of money to be exposed to risque, to complete the wild and ambitious project of a single individual. If Mr. Trotter, instead of placing the property in the hands of his friend Mr. Mark Sprott, had placed it with less mercenary adventurers, the whole sum might have been sacrificed. Will the learned counsel be serious in representing these strange contradictions in the character of a nobleman, who has so long been a member of the great councils of the empire, and who has so long enjoyed the plenitude of royal favour and confidence. I think, my Lords, that although the learned counsel may have produced some temporary effect from a manner and gesticulation peculiarly significant and emphatic, yet that they will be involved in considerable difficulties before they can raise their defence on such a foundation.

"For the sake of the argument, I have imposed that it might be a question, whether Lord Melville derived any advantage from these pecuniary adventures. Mr. Trotter was induced to say, that Lord Melville never knew that his Paymaster derived any advantage from the public money. After this declaration under such solemn circumstances, your Lordships will be surprised to hear, that Lord Melville expressly and publicly admitted, that Mr. Trotter had made such private emolument. There is no end to the contradictions with which this case is incumbered. In what I have just said, I allude to the examination of the noble defendant before the commissioners of Naval Enquiry.

"But before I enter upon this, it may be right that I should make some remarks upon that part of the cross-examination of the learned counsel, by which they endea-

voured to shew that the noble defendant had been taken much by surprise in the answers he had made to those Commissioners, and that he had neither sufficient time to consider the questions proposed, or the replies to be given to such enquiries.

" One would imagine from this sort of defence aimed at in this case, on more than one subject, that the noble defendant was a man of great simplicity, ignorant of the affairs of the world, and unpractised in the business of life. That on this particular occasion, he had acted consistently with this general character, and had given his answers in a manner loose, incorrect and irregular. On reading the examination to which I have referred, no such opinion would be formed of the noble defendant. Instead of precipitation and incaution, he demands protection from the letter of that law, with which he is perfectly conversant: from the beginning to the end of this procedure he wears the appearance of a person completely on his guard, and in every part of his reply, he accommodates his answers with great address to his own purposes.

" I am sure, my Lords, you will think that the reasons assigned by the Commissioners for the method adopted in their examination was discreet and well founded, and the public are under the greatest obligations to that honourable and learned person who appeared here as a witness, (Mr. Serjeant Praed), and to those with whom he was united in these important and public duties. They have steadfastly, virtuously, and honourably discharged their functions, and are entitled to the approbation of their country.

" If any intriguing minister were desirous to have Commissioners of Enquiry appointed under the specious appearance of exposing to the public the abuses of office, no other expedient would be necessary to defeat every useful design, than to contrive that the persons to be interrogated, before their appearance in the presence of the Commissioners, should have the questions laid before them, that they might discover in what way they could best delude the public in such an examination.

" The examination to which I shall now proceed, took place on the 5th of November, 1804. At that time the

precept

precept had been delivered to Lord Melville four months, during all which time he was acquanited with the general scope of the enquiries, if not with the particular questions that would be proposed to him. He had then, a complete opportunity of reflecting on the kind of account he was to give before these commissioners.

"His Lordship stated on this occasion, that he certainly did permit Mr. Trotter to lodge any money drawn from the Bank for public purposes in his private banker's hands during the period that it was not demanded for the purposes for which it was drawn; but it is to be inferred from his evidence, that he intended Mr. Trotter to draw upon the Bank for the amounts only of the assignments made on him by the different Boards (an account of which is furnished to him daily) and that the balance of such sum till demanded should be lodged by Mr. Trotter in the hands of his private bankers. The reason given by his Lordship for this permission is the opinion that it would add more facility to the conduct of the business of the office in the multitude of small payments to be made that if the money were to be deposited, according to the constitution of the office in an iron chest; and that the various parties receiving small payments would be less liable to be imposed upon than if they were each to receive drafts for such small sums upon the Bank, at such a distance from the office after its removal to Somerset place.

"The Commission had been appointed the year before, as early as the 23d of January, 1803, and the first precept was, to procure an account of the balance in the Navy Pay-office. The return made was on the 2d of February, 1803. To the time of the subsequent examination of Lord Melville, the subject had occupied the mind of Mr. Trotter for more than a year and a half, and after all this time given for mature consideration, after the accounts from his office were demanded, Lord Melville is called upon to answer before the Commissioners, and we are now to be told, that under the agitation of surprise his answers were given on this grave occasion.

"It was asked if after the examination, Lord Melville would have been permitted to correct his answers, and your lordships have been informed, that he would have had

had every fair oportunity of doing so, and that on mere application for this purpose, his request would have been granted.

" Then, my lords, on the 28th of March, 1805, after the report had been published, he writes to correct his former examination. That letter was laid before your lordships, and you find by it that he had not only an opportunity of amending any errors at his examination, but that he had the same means after a long period of time.

" What is the account of Lord Melville on being asked whether he gave permission to the paymaster to withdraw the money from the Bank, and lodge it in the hands of a private banker, with a view to his deriving any advantage or emolument therefrom? He answers ' If it is meant to ask me whether I ever gave my direct authority to the paymaster to use the money in the manner abovementioned, I should certainly answer no: but I have no hesitation in saying that I believed and understood he did, and never prohibited him from doing so; and I believe it was so understood by others at different times, when the establishment of the Navy Pay-office was under consideration, when certainly no competent provision was made for the person exercising that trust of great extent and responsibility.'

" My lords, when I read this answer—an answer which he gave after mature consideration, to which he adhered, which he never corrected, although he had the fullest opportunity of doing so; I presume that there will be no difficulty in satisfying your minds, because no doubt, as it appears to me, can remain with any rational person on this subject. After the act had passed, by which it was commanded that the money should remain in the bank, and only be applied to public purposes, he says, in respect to the use of the money by the paymaster, ' I have no hesitation in saying, that I believed and understood he did, and never prohibited him from doing so.'

" I wish, my lords, to impress this sort of incontestible evidence strongly on your minds. We have thought it necessary to trace a great variety of the subjects of these charges from their origin, through all their progression to the ultimate conclusion: but this, my lords, for

was not necessary for the mere purpose of conviction, for upon the mere examination now recited, we have all that is required for that purpose.

" Is it to be insisted, that because, in the valuations upon the bank there were statements in words of general services to which the payments were to be applied—statements which were false and fabricated, that this is a compliance with the requisitions of the statute? The money, in such cases, not being demanded for the public services noticed on the face of the draft, but being withdrawn from the fit repository in order to be placed in the house of Messrs. Coutts at Mr. Trotter's disposal, I cannot suppose that it will be contended, that, because the words the---pay branch, the victualling branch, the navy branch, appear as the drafts, that this is a compliance with the salutary intentions of the legislature. The money, my lords, was to be drawn not merely in the name of the public services, but for, and on account of the public service. The drafts were not to be a deceptive semblance of conformity to the act, when the money was to be perverted in the manner, and to the extent we have stated.

" But we are told, that the removal of the money was attended with some official convenience.

" Where the criminal intention has become a matter of uncertainty, it has always been considered by the ablest judges, that an explanation given which is untrue, furnishes very strong presumptive evidence of guilt, and I hope your lordships will recollect this as I proceed further on the subject.

" The reason assigned by his lordship for transferring the account to private bankers was, " that it would add more facility to the conduct of the business of the office, in the multitude of small payments to be made, than if the money were to be deposited, according to the constitution of the office, in an iron chest; and that the various parties receiving small payments would be less liable to be imposed upon than if they were each to receive drafts for such small sums upon the bank, at such a distance from the office after its removal to Somerset Place.

" It is in evidence before your lordships, and indeed it is a fact about which you can have no more satisfactory

tory proof, that there are no small payments whatever made by the paymaster, excepting in exchequer fees, which is an affair of quite a different nature. You will not forget what is stated of the office of paymaster. He is the servant of the treasurer; but all he has to do in that capacity, is to receive the money, and to pay it to the inferior agents. The payments are all in large sums, and by a reference to the account of Messrs. Coutts, I believe it will be seen, that there are not more than three payments below 1000l. They are generally amounts of magnitude, ascending to thirty, forty, and a hundred thousand pounds, and even to much higher sums.

"The persons who do pay small sums are the clerks of the navy pay-office, and to this single branch, small payments are confined. But, my lords, I am ashamed to detain you on what is so obvious and palpable; I will not proceed: the truth is, the paymaster has no such inconsiderable accounts, and this was nothing but a pretext for transferring the property. Not the smallest ground whatever, either from this argument or from any other, can be afforded for this change.

"Now, can your lordships for a moment suppose, that Lord Melville did not know something of the office, or that he could be so ignorant of his business as to have conceived this to be a fair representation. How, in point of law, would a public officer be permitted to shelter himself under this ignorance of the duties of his station? But have you not before you, the strongest evidence from Lord Melville himself, that he was acquainted with the most minute details of his office: he knew the occupation of every individual employed in the most subordinate situations of the establishment with which he was connected. Do your lordships forget the order of council; the memorial by Lord Melville which gave rise to it; which ascertains the precise salaries of every dependant from the lowest to the highest throughout all the branches comprised in this office. He descends so low as the house-keeper, the door-keeper, and the necessary-man; and for these agents, superior and inferior, he proposed an increase of salary, which raised their emoluments from 1700l. to the prodigious sum of 9,128l. and

and the principle on which this augmentation was conceded was, that ascertained salaries should preclude every other source of emolument.

"The noble lord, at least, had the credit of being the most active and vigorous servant of the public, of having a perfect acquaintance with all the duties and relations of his office, and he entered into the most minute, and perhaps disgusting, detail: yet, when you are enquiring respecting the paymaster, you are to be told, that Lord Melville was wholly in the dark respecting the nature and business of his department.

"My lords, is this to be patiently endured, are we to listen to a story of this kind, which a child would consider an insult to his understanding?

"There is another part of this case, to which I will intreat your lordship's attention. You have heard a great deal of the danger of carrying drafts to the bank: they may be mislaid, they may be lost, they may be stolen, and by a thousand accidents, which no human foresight can prevent, the sacred monies of the public may be plundered: and while you are seriously attending to this narrative, you are informed that these persons, whose feelings were so much awakened where no danger existed, permitted a million sterling to be carried by a messenger in his pocket from the bank, passing the office at Somerset-House, to be lodged at a private bankers. What comment can be made on such glaring inconsistency, and to what risk were the public not to be exposed, in order to facilitate this favourite project!

"Then they talk of the ease with which payments are made at the office, and that every demand, whether great or small, is instantly satisfied. But in contradiction to this, it appears upon the evidence, that the usual hours of business are not engaged for this purpose, and although the bank payments are continued until five in the evening, all issues from this establishment cease at the early hour of two in the afternoon.

"I now come to that, which in some points of view, is by far the most important, and most serious charge; I mean the advantage which Lord Melville derived from the money so diverted from public purposes.

"Under this division, it is not my intention to waste

your lordships' time, by dwelling on all the instances of this practice furnished by the evidence before you; I shall select only a few, which will be amply sufficient for the support of my argument.

" My lords, it was in the year 1789, when Lord Melville, holding the situations of treasurer of the navy, and president of the board of controul, had some conversation with Mr. Trotter on the subject of India stock. His lordship said, that India stock would become more valuable, and that therefore he wished to be a proprietor in that fund. On this communication, Mr. Trotter recommended to his lordship to make purchases in it, to which the latter replied, that he had no money. Mr. Trotter thinking this difficulty easily surmounted by the means within his power, said that he had public money, and that he would apply a part of the balances to buy India stock for the benefit of his lordship. Mr Trotter says, that Lord Melville refused to accede to any such proposal, and in terms so strong, that he conceived he had incurred Lord Melville's displeasure. The words were upon the cross examination, I think, that his lordship indignantly rejected the proposal.

" My lords, it will appear extraordinary, that in the course of the conversation, during which he seemed to consider the mere suggestion such a reproach to him, and when his indignation was so powerfully expressed, the mercenary principle so far prevailed over this honest and manly feeling, that he consented to engage in such a speculation. Not only on this account, but on another, he ought to have resisted such a temptation. By the confidence his Majesty reposed in him, he had opportunities peculiarly favourable, of discovering the secrets of India concerns, and he could not be a fair speculator. In the course of the same interview, Mr. Trotter proposed to him to procure a friend to purchase the stock, which friend was to lend it to his lordship, upon no other security than the stock itself. To whom was this proposition made? To a man, not in the habits of business, and unacquainted with the practices of the world? No; to a person of extraordinary talents, of great insight into the human mind, who had held high offices through life, and who had been constantly in the

practice of conducting great affairs. Was it to be supposed; that any money-lender, technically called a friend, would part with his gold upon the security only of the stock purchased? If the offer were made to a man of business to alienate his cash on such an uncertainty; would he not imagine his understanding insulted? The engagement involved a sum to the extent of 23,000 l. Can it be conjectured, that any man above the degree of an idiot would listen for a moment to such a miserable exchange of solid property for this fluctuating medium. What is the consequence of such a negociation? If the speculator gained by the adventure, it is all his own; but if there be any loss, it is that of the lender. It is evident that all this was nothing but a contrivance, and that if that honest indignation was ever expressed, it hastily surrendered at the shrine of avarice or prodigality. It is impossible not to see, that the first and the second proposition of Mr. Trotter were in fact the same, and no matter whether it was expressed through this false colour, the form and substance of the thing was perfectly clear to both parties.

"Then there is no memorandum of the transaction, all is left to the honor of these money-dealers, and you are told that no enquiries were made by Lord Melville. Lord Melville had entertained no doubts of the integrity of Mr. Trotter before; is it possible, that after this interview, he could remain in any uncertainty? If Mr. Trotter indeed, were entitled to that honorable character, what would be the natural reflection in the mind of Lord Melville? "I must expose myself to my own Paymaster, the man of all others, with whom I should stand fair in the business of my office." If indeed they were both of one description, no such sentiment would disturb the repose of his Lordship.

"But we may reasonably expect, that after this imprudent sally of Mr. Trotter, in his solicitude to serve his patron, and after this indignant expression of the noble Lord's sensibility, the Treasurer would have watched the conduct of his paymaster with peculiar industry. The contrary of all this appears on the evidence; prodigious sums were drawn from the Bank for private purposes, and such an excess of negligence as that indulged

dulged by the noble Lord, could scarcely be supposed in the most illiterate man.

" It is impossible for me to reconcile all these absurdities. If the noble Lord did not understand the transactions in his office, all I have seen and heard of his character and talents, must have been an illusion, and the senses of all mankind respecting him must have been equally deceived.

" Then, at last, as I have before intimated, Mr. Trotter's balances rose to half a million, and immense sums rssulting from such an account were spread far and wide in the money market, through the friendly medium of Mr. Mark Sprott. Instead of being inspired with any principles of caution from the ardent indignation expressed by the noble Lord, Mr. Trotter increased his own conviction of security, and exhausted his concerns to this enormous extent.

" Of the India stock so purchased, the dividends were passed to the credit of Lord Melville, not of Mr. Lind, whose name was employed, and against Lord Melville on this part of his account the interest for this loan was charged.

" I now come to a sum of 10,000l. advanced for the Loyalty Loan. It is in evidence, that the whole of the instalments on this fund, was paid by Messrs. Coutts, from Trotter's account, out of the public monies. If the transaction had rested here, a cloud might have surrounded it, which might have prevented our discerning its true situation and character. But we must recollect Mr. Trotter made immense advances for Lord Melville charging no interest; not only the 4.000l. on bond was lent without interest, but other very large sums, and among them this 10,000l. without the smallest return of that kind for the accommodation. Remember too, that Lord Melville condescended to accept these amounts on such conditions, from a person who was a servant in his office, who a considerable portion of his time had been miserably supported on a salary fluctuating from 50l. to 100l. a year.

" My Lords, what was the compensation these parties were to receive for this reciprocal accommodation? Whatever your Lordships may suppose, they felt it to

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be abundantly sufficient, it was their mutual connivance in their abuse of the public trust reposed in them and the common advantage they deirved from this conspiracy against the rights of the public.

"The whole of this advance was in the sequel transferred from the private account of Mr. Trotter, to the chest account, that is to the public account of Lord Melville. This expedient was suggested by the timidity or prudence of Mr. Trotter.

"Now to advert for a moment to the nature of these two accounts. The private account is what has been called the account current in the course of the evidence, and the first item on this acconnt is the 4,000l. advanced by Mr. Trotter upon bond. The first in the chest account was the 10,600l. which Lord Melville stated to Mr. Trotter he had of the public monies in his own hands. As they set out, so they proceeded onward, the former contained all the private, the latter all the public advances, unless some commodious transfer diminished the one and magnified the other. According to the understanding under which the sums were required, they were to be passed to the one account or to the other. When Lord Melville demanded money to be advanced to him without explanation, it was presumed to be public money, and where any explanation was given of the motive, it was supposed to be private, and was entered accordingly.

"The chest account was not only shewn to Lord Melville, but it was signed by him. It was in his possession, and I wish I could add it was now in his possession, and that it would be produced in the defence for the inspection of your lordships.

"The short question is, if after the act of parliament has declared, that no emolument should be derived by the use of the public money, he has, or has not acted in defiance of this legislative regulation.

"It is in proof before you, that not only the items I have particularly distinguished, but others of two, three, and four thousand pounds were advanced to Lord Melville out of the public money, for his exclusive advantage.

"When the witnesses were examined upon a calculation that was produced on the probable benefit his lordship

ship derived from the loyalty loan, you will not forget, that his learned counsel never ventured to ask whether advances were made for that purpose, but if it were not, in the end, an unproductive speculation.

"I am afraid, my lords, I have already engaged too much of your time in the attempt I have made for the elucidation of this protracted evidence, but, in the discharge of my duty, I yet feel it necessary to obtrude myself upon your attention, notwithstanding the method I have adopted to direct your lordships' mind to the great and prominent facts, instead of descending to the minuteness of arithmetical detail.

"My lords, I am not quite sure, if either the law, or the facts respecting the release, have been fully explained and understood.

"It is a release of all demands between Lord Melville and Mr. Trotter, excepting a certain sum, which was agreed to be the balance unliquidated between them; and in the release is contained a recital, that the parties have mutually agreed to deliver up and destroy all the vouchers in each other's possession. It has been said, that there was no voucher destroyed by Lord Melville in consequence of this agreement; yet this, perhaps, may not have been proved, but only affirmed by his lordship's counsel. But I will give them the choice. The documents have either been destroyed previously, or otherwise. If they had been destroyed before the accounts were settled, then they were destroyed while it was a pending account, and when it was the interest of each party to preserve them. If they were destroyed afterwards, for what purpose could this be done, but to prevent all evidence of the transactions. But, perhaps, nothing can place this subject in a more obvious light than the letter from Lord Melville himself, in which he endeavours to make an apology to the commissioners for his conduct."

"I have received (says he, on the 30th of June, 1804,) "your requisition of date the 6th instant. It is impos- "sible for me to furnish you with the account you ask. "It is more than four years since I left the office of "Treasurer of the Navy, and, at the period of doing "so, having accounted for every sum imprested into my hands,

" hands, I transferred the whole existing balance to my " successor. From that time I have never considered " any one paper or voucher that remained in my hands " as of the smallest use to me, or any other person; and " consequently, being often in the practice since I re- " turned from Scotland of employing, occasionally, some " time in assorting my papers, and destroying those that " were useless. I am satisfied there does not exist one " material by which I could make up such an account as " you specify. But, independently of that circumstance, " I think it right to remind you, that, during a great part " of the time I was Treasurer of the Navy, I held other " very confidential situations under government, and was " intimately connected with others. So situated, I did " not decline giving occasional accommodation from the " funds in the Treasurer's hands to the other services not " connected with my official situation as Treasurer of the " Navy. If I had materials to make up such an account " as you require, I could not do it without disclosing " delicate and confidential transactions of government, " which my duty to the public must have restrained me " from revealing.

(Signed) " MELVILLE."

" This letter, my lords, shews not only that the vouchers were destroyed, but that they were destroyed upon mature consideration, upon a judgment, as it were, upon every voucher from time to time.

" But now let us attend to the period which is chosen for this purpose. There is no account settled at the time: the noble lord and Mr. Trotter had been in Scotland, and they were both in London soon afterwards; yet it was of so much consequence, that every trace of evidence should be obliterated, that the release was hastily prepared, and sent with all expedition into Scotland; and all this is secretly transacted, at the critical moment when the accounts were required to be revealed by the Commissioners of Naval Enquiry. The witness told you distinctly and positively, that he took this step in consequence of the commissioners. Whatever were the motives of Lord Melville, the intentions of Mr. Trotter have been openly avowed, and it is easy to discern, that a com-

a community of sentiment prevailed between these parties.

"It seems to have occurred to them, that some little explanation would be required of such a singular proceeding; and they provided, as well as the nature of the circumstances permitted, against this source of embarrassment. What apology they make is supplied from this very recital in the case respecting the destruction of the papers, so that they contemplate the destruction, and prepare this instrument, not to justify the destruction of the papers to each other, but to palliate this transaction to the world when such an explanation should be demanded.

"But it is to be said, that this was done inadvertently, that Lord Melville knew nothing of the contents of the instrument, and that he was wholly negative. What! a gentleman whose fame had been established by his profound knowledge in the law, are we to be told, that he never looked at this instrument, or if he did, that he never understood its contents? Will not your lordships conclude the guilt of the noble defendant from the destruction of these vouchers? It will hardly be necessary for me to state to your lordships the inference always drawn on such occasions by the highest legal authority. Most of the instances which occur to me, are in civil cases, and in these, a party who destroys papers, is always charged to the full extent, as if the vouchers so destroyed, were the most unfavorable possible to his interest. Some of your Lordships will recollect the case of a boy in low life, who having found a ring in the street, carried it to the shop of a jeweller. The tradesman told the boy it was worth only a few halfpence, which he tendered, and which the boy refused to accept. The gem was not returned, and was not forth coming, and an action was then brought against the man who retained the ring, and the direction to the jury to guide them in ascertaining the damages was this; that they ought to find for the value of the richest gem which could be placed in a setting of the proportion of that produced, which had contained the gem in question.

"There is another case in Peere Williams. This was a bill

a bill filed, and the defendant had destroyed the deed. Evidence was given to a limitation upon the estate of which that deed, so destroyed, was the conveyance; but the court said, they would presume every thing against a man who had committed such an act.

"There is a recent case before Lord Chancellor Eldon. It was between the executor of the Duke of Newcastle, and a Mr. Jackson, the steward of that nobleman. It was the duty of the latter to have kept accurate accounts of all the business that devolved under his care. It so happened, that Jackson had kept no accounts; he thought the best way was to state some great and general demand. When the case came before the master, he was of opinion, that the court ought to presume that the defendant had no demand, from the non-existence of the account.

"Such is the law in civil cases, and I am confident, my lords, that in criminal cases, the person is convicted of the offence on presumptive and circumstantial evidence on very numerous occasions. The case may occur of a man's being indicted for murder, and there is no evidence but what is circumstantial, that is, of the existence of circumstances which cannot be accounted for in any way, but under the supposition of the guilt of the party accused. Then I will suppose evidence was produced, that the accused had destroyed the clothes of the man who was murdered; would it not be presumed, that this raiment was stained with the blood of the deceased, and would it not be considered a most material part of evidence, if it would not go the length of this conclusion, that no man would have destroyed the clothes but to conceal the perpetration of the deed.

"I say, if it would not go this length, for I do not mean to contend, that if this were the only circumstance, wholly unattended with other particulars, it would not, it ought not, necessarily to lead to that conclusion. Nor do I in this case, desire your lordships to draw the same inference from the single circumstance that all these vouchers are destroyed: it is not this alone, insulated and unaided, that would justify the conviction, but it is otherwise, when surrounded by all the facts which have been brought before you in evidence.

"In this case, we do not, however, merely rest our

charges on presumptive evidence. Here is a public trustee, and with him the destruction of the papers is itself a crime.

"These are all the observations which occur to me as material to make before your lordships, after the diligent attention you have paid through the whole of this long investigation."

The Lord Chancellor.—"I ought, in point of form, to ask, if the other Managers for the House of Commons mean to make any further observations on the evidence?"

Mr. Whitbread.—"The summary view now given, completely satisfies the Managers for the Commons."

ELEVENTH DAY.

TUESDAY MAY 13TH.

THE Lord Chancellor. "You may now proceed on the defence, and the Lords will be pleased to give their attention."

MR. PLOMER.

"WHATEVER may be the result of the present proceedings, I am confident that your Lordships will administer the law with justice and impartiality. You will readily apprehend, what are the impressions of extreme anxiety upon the mind of the noble defendant on this occasion. The charges exhibited against him, have been for a long time before the public, and they have been circulated with unusual success and industry. He is now called upon to answer before your Lordships to these charges under circumstances of peculiar disadvantage. One of the dependants in the office over which the noble Lord presided has been arrested by the hand of death, another received his protection from early life, and obtained his entire confidence. He has been brought forward and submitted to your examination.

"The noble defendant has the misfortune to have for his accusers the Knights, Citizens, and Burgesses of the realm, who come here in the name of their country armed with all the privileges justly belonging to that respectable and dignified body. From among these, individuals are selected to conduct this prosecution, who are possessed of great parliamentary experience, who are endowed with extraordinary talents, and who are provided with the best legal assistance which a learned profession can supply.

"In addition to all this, the evidence is of great extent and variety, and involves the counsel for Lord Melville in considerable embarrassment.

"I have heard an observation from a learned and honourable manager, which I am confident was not intended to convey what it seems to import, and I beg leave to

observe that I shall use indifferently the terms, the Managers, and the Commons of England, and when I speak of the latter it will be understood I only mean the former in their collective character. The remark to which I have referred and on which I think I have some cause of complaint is this, that in the present impeachment the Commons of England may be considered on their trial.

"I am sure, my Lords, that you will carefully attend to the judgment you have to pronounce, you cannot be influenced by the dignity of the accusers, but alone by the facts in evidence, and you will not think that the character of the British House of Commons is at all concerned in your decision. I beg on this subject to be distinctly understood. It never was the intention of Lord Melville, when abuses in the office were discovered in the department over which he presided, and when doubts were entertained, to whom these abuses were to be attributed, I say, it was never his intention to express any doubt whether it would become the House of Commons to institute on enquiry. My Lords, if I, an humble individual, may presume to speak an such a subject, while any suspicion was entertained that an ostensible servant of the public derived any pecuniary benefit from such abuses, I would declare, that it was their indispensible duty to put the matter into a train of investigation. It was fit that the nation should be satisfied, through the medium of its representatives, and it was right that they should be informed, whether the defendant were culpable, or whether the blame were to be attributed to his subordinate agents. But however proper it might be, that such an examination should be made, it was by no means fit that the general voice of clamour should be raised pending the proceedings on this trial. The pure administration of justice is the uniform wish of your Lordships; not one individual of this august assembly would wish to violate the principles of natural right, and that any one should be condemned and punished unheard.

"This is not an affair of to-day or yesterday, the noble defendant has been the victim of a series of privations and misfortunes. First, he was precluded from the honorable situation he held in his Majesty's councils, for

ever: then he was to be liable only to civil prosecution; and then he was to be subject to the penal laws. Every possible means have been employed to sift his conduct to the bran: month after month has been employed to examine and re-examine all the written documents that could relate to the subject, witness after witness has been called to search into every secret of the human heart, and Acts of Parliament have been passed to facilitate the disclosure of every circumstance that could be unfavorable to the noble defendant. If after all this extraordinary exertion and vigilance it should appear that Lord Melville is innocent of the high crimes and misdemeanors laid to his charge, I am sensible it will be a source of great satisfaction to your Lordships, and you will be convinced that nothing could implicate the purity and integrity of his character.

"I have, my Lords to complain of one outrage against all the principles of humanity and justice in an assembly where the Noble Defendant could not appear, where opinions were given, not by anonymous libellers, not by insignificant individuals, who could be concealed beneath the cloud of their own obscurity; but by his accusers, respectable for their rank, their fortune, and their character —opinions not only declared, but modified into the form of resolutions registered in the public annals of the Country and carried to the foot of the throne of its sovereign. I entertain hopes that the sentiments naturally felt by the nation on this subject will render the honorable assembly to which I have alluded more cautious, and I am sure the circumstance will be obliterated from your minds, so far as to prevent any improper influence from such an unqualified and imprudent proceeding.

"The noble defendant being called upon to answer these charges, from the distance of time in which they were presented, it would have been competent to him to have addressed a different defence to the tenth article so lately exhibited: another course has however been adopted, and indeed the first and tenth articles are so intimately connected, that their separation in the defence seems to me not only unnecessary but improper.

"In what I have to offer before your lordships, I shall follow the example of the honourable and learned mana-

ger,

ger, who summed up the evidence, by not attempting to wade through the immense mass of proof, and by passing over the preliminary topics which have little relation to this cause. This honorable and learned person said, that he should only solicit the attention of your lordships to the prominent features of the case, and if I, in imitation of this judicious pleader, should pass over what appears less material, I hope no unfavourable inference will be drawn, and that it will be thought I omit what deserves no attention, rather than that I avoid what can receive no answer. The general subject presented to your lordships by the ten articles, may be divided into two heads. The first head refers to what passed in the office of the Treasurer of the Navy anterior to the act of the 25th of the King; the others relate to what is subsequent to that statute, which placed the Treasurer of the Navy in new and peculiar circumstances which appear to my mind not to have been correctly understood.

"The first and tenth articles belong to the former, and include the same period of time, and they alledge, that the defendant did fraudulently, and illegally convert certain sums to his own use, or to some other corrupt, and illegal purposes, and to other purposes than those of the public navy services of the kingdom, to which alone the same was lawfully applicable, and did continue such fraudulent and illegal conversion and application of the same, after the passing of the said act of parliament for the better regulating the office of the Treasurer of His Majesty's Navy, and also advert to his concealment of the same from motives of public duty, private honour, and personal convenience, as expressed in his declaration to the House of Commons.

"The second article charges a breach of the act in respect to the money when drawn from the Bank, the mere act of drawing from the one place to the other, without reference to the corrupt use of it, and this is stated to be a violation of the act of parliament.

"In all the other seven articles, the use of the money constitutes the offence, or else it is the use and the act of drawing united, and applying to his own emolument, the money so subtracted from the public. The terms are somewhat loose, there is a generality in them not consistent

sistent with legal precision, they do not positively and exclusively charge the noble defendant, but are more comprehensive than is perfectly regular in a criminal proceeding.

"Then we have the charge of destroying the vouchers, from which an inference is drawn of guilt in aid of the other allegations.

"This, my lords, is the general outline; it is now necessary that I should descend to the particulars, and on doing so I shall speak of the first and tenth articles collectively.

"The first article states, that Henry Lord Viscount Melville, whilst he held and enjoyed the office of Treasurer of His Majesty's Navy, and previous to the 10th day of January, 1786, did take and receive from and out of the money imprested to him as Treasurer of His Majesty's Navy from His Majesty's Exchequer, the sum of 10,000l. or some other large sum or sums of money, and did fraudulently and illegally convert and apply the same to his own use or some other corrupt or illegal purposes, and to other purposes than those of the public navy service of the kingdom, to which alone the same was lawfully applicable; and did continue such fraudulent and illegal conversion and application of the said sum or sums of money, after the passing the act of parliament for the better regulating the office of Treasurer of His Majesty's Navy. And the said Henry Lord Viscount Melville has declared that he never would reveal the application of the said sum of 10,000l. and in particular he did make such declaration in the House of Commons on the 11th day of June, 1805; and then and there added that he felt himself bound by motives of public duty, as well as private honour and personal convenience to conceal the same; all of which conduct of the said Henry Lord Viscount Melville was contrary to the duty of his said office, a breach of the high trust reposed in him, and a violation of the laws and statutes of this realm.

"You will observe, my lords, that in this article, the period of time is in January, 1786, and therefore prior to the act, which relates entirely to money issued at a posterior date mentioned in the statute.

"Now, my lords, on the subject of corruption in this charge,

charge, I wish you explicitly to understand, that, on the part of the noble defendant, I do publicly declare, that whatever irregularity, imprudence, negligence, or culpability in any other respect may lie at his door, to the charge of corruption he pleads not guilty. If it should be discovered, that in a single instance the mind of the defendant has been corrupt, that he has infringed the law of moral duty for money, that in the pursuit of money he has sacrificed his conscience and his fame, he entreats of you that he may receive no indulgence, and that he may meet that sentence of condemnation, which, in such a case, it would be incumbent on your lordships' to pronounce.

"But, while I confidently challenge you to do this in the name of his lordship, as his counsel I may express my firm conviction, that before you proceed to such a decision, you will carefully compare the charge with the evidence—you will allow for the means of defence, which from the length of time have been lost—for the defect of memory, for the death of witnesses, and for the complicated difficulties to which, under these circumstances, the noble defendant is unavoidably exposed.

"If you find this to be a situation in which an honourable man may be placed, who, from the habits and principles of his life, has an utter disregard for every mercenary consideration, and who, from his vast political occupations, with all the energies of his mind, has scarcely time to attend to his public duties, much less minutely to inspect his private affairs, you will pause before you condemn. Before you condemn, you will recollect the difference between a private individual whose immediate interests constitute the whole history of his life, and a great public functionary who devotes his days and his nights to the service of his country.

"I must observe, in justice to the honourable managers who have conducted this prosecution, that from correct views of the life of Lord Melville, they distinctly admitted that the passion of avarice never entered the mind of the noble defendant. The honourable person who asserted this, had before him the materials for discovering all the secret annals of Lord Melville, every item in his accounts, every book kept by those with whom he was connected,

nected, every scrap of evidence that could be procured, that honourable manager had, with indefatigable industry, arranged and examined, and such was the conclusion he drew from these abundant sources of information.

"If then, my Lords, he be guilty of this charge, he will have departed, for the first time, from the maxims to which he has adhered through a protracted existence: he will have forsaken all those objects to which his adulation has been directed, his reputation and his honor, and, he will have surrendered these deities of his worship to what he never before valued. The present condition of his fortune, after holding the most dignified and lucrative situations in the state, gives the strongest confirmation of the argument I employ. And then, my Lords, at what period does he do this? At a time when he might have retired from public duty, and carried his fame with him to his retreat.

"If it be true that avarice took possession of his heart, what was his temptation, the inmate to his bosom? He did not pursue the lower walks of life where such a companion might be expected, he was advanced to posts of dignity most suited to elevate the mind; and he was occupied with the policy of his country at the most critical period in the history of Europe. He was at the head of the Board of Controul; he was Secretary of State; he was engaged in the War Department; and he had all these national affairs upon his hands, at a moment when not only the greatest wisdom, but the greatest activity was required. He was never a man disposed to figures, to accounts, and to minute arithmetical computation; he was never accustomed to them, perhaps unacquainted with them; and it was natural for him to transfer this inferior labour to others. If then the accounts which were presented to him were signed without inspection, it is easy to suppose that this carelessness was incident to his natural habits, and no unfavourable inference could be drawn, at least not to the extent of charging him with vice and corruption. In travelling through a series of figures, relating to transactions four and twenty years ago, when the principal witness is dead, it cannot be expected from his Lordship under such a disposition of mind, or indeed of any man, whatever may be his turn of thought, to explain each particular item, and

to produce his bankers' book, and to state all the purposes to which the multifarious sums have been directed.

" When we come to more recent transactions, where the witness is living, and the account of the officer can be given with more certainty, I shall not ask the same indulgence, but I am confident, both with respect to one and the other, you will not hastily draw any uncharitable conclusion.

" With regard to the first 10,000*l.* it is enough for me to state, that it arose at a time when there was no law upon the subject, either common or statute, and whatever obligation there was resulting, only from the implied contract, founded on the warrant by which an annuity or salary had been granted.

" Now here again, my Lords, I entreat that I may not be misunderstood, while I am examining the allegations. I hope you will not think that I am admitting the corruption, and taking shelter under a formal objection. I am aware, that his Lordship was under certain obligations, if not by the express, by the implied terms of the contract: but I say, that independently of the warrant, there was no common or statute law of the land, which precluded this officer, or others in a similar situation, from using the public monies which devolved into their hands, to any purpose of private profit or emolument.

" I know, when I assert this, I am taking up the gauntlet of the honorable manager who has opened the articles of impeachment; I know he has distinctly and ably argued, that before 1785, when the statute passed, it was illegal for any public officer to apply such money to his own use. He means to say, that it was the law then, and the law recognized by the resolutions in 1782.

" Perhaps the principal force of the honorable manager's argument, was directed against the confession of the noble defendant in the House of Commons, the confession of a public accountant in what has been called the sanctuary of liberty, when he said he would conceal the use which he had made of the public money. He had asserted, he had a right to make this employment of it: and the offence is, that he had dared to avow this in the sanctuary of liberty.

" All these general principles, if they afforded observation

vation against an accountant, must equally apply to the Paymaster of the Army, to Receivers-General of the Land Tax, to all officers, to a man who was entrusted with the public money, and if they use it before it is wanted or required by the public, all this would be matter of charge against them.

" Now with great submission, notwithstanding all that has been urged, I undertake to prove before this august assembly, and I well know in whose presence I speak, that there is not a particle of truth in this reasoning; the whole is an error and contradiction. The law is not so, universally admitted not to be so in every book upon the subject, and openly and publicly declared not to be so in the very sanctuary of liberty, by the highest and enlightened characters in it, and under circumstances which indicate the most positive conviction on the subject.

" My Lords, I hope I may be permitted, as we are now upon a history of the transactions referred to in these articles, when you are called upon in the most novel manner, to advert to the declaration of the Commons, and to say that such a declaration cannot constitute the law of the land. I hope I may accompany this allegation with all that passed in parliament at the very period, and preliminary to the time referred to in these charges on which you are now to pronounce judgment.

" The honourable managers have stated, that the condition of the public accounts attracted the attention of parliament; public œconomy was the object, and Commissioners were appointed under a certain act to promote it.

" Your Lordships will find a most singular and extraordinary account in the preamble to the articles; and when it is attentively examined, it will be discovered, that the directly opposite conclusion must be drawn from the sources there stated, to that which is deduced in this preamble.

" It appears by the Journals of the House, that upon the 11th of June, 1781, the subject was brought under the consideration of parliament by the minister of the day; and your Lordships will condescend to follow through the proceedings at that time. Upon the occasion of this enquiry, the balances which then remained in

the hands of the public accountants, were reported by the Committee, and they stand upon the minutes of the House. It is not necessary to trace back the subject as early as the beginning of the last century, but to descend to a period which will be within the recollection of some of your Lordships; in the year 1778, a noble person went out of office with large balances, of which he has since been in possession, and I think the whole demand was 450,000*l.* What did he say in this sanctuary of liberty? Did he admit that he could not apply the public money to private use? No, and he asserted his right to make such use of it. Here he was ready to throw down the gauntlet, and to argue against any man who professed a contrary opinion, that if a public accountant should produce the money in his hands when required, it was a matter of indifference to the public what beneficial application was made of it by the individual.

"An honourable and learned manager, indeed a recent member of the House of Commons, but who has long been the ornament of the profession, will challenge me, and I will exclaim, 'How do you dare to assert that a public accountant, not only to the amount of ten thousand pounds, but to the extent of four hundred and fifty thousand, may thus divert the public monies? You throw down the gauntlet, I take it up, and insist that you have no right to make this profit of the public money.' What was the case at the date to which I have referred? The minister was not of opinion with the learned and eloquent gentleman: he said that if a public accountant would produce the money when necessary, it was immaterial what use had been made of it. Now two persons who never agreed before upon any one subject, at least concur upon this; and yet here we are to receive a different explanation of the law of the land.

"It is said that the late Lord Chatham made no use of the public money; but it will be recollected that it was said by one of that day, that he neither blamed, nor much admired his Lordship for this abstinence.

"The subject was again discussed in the following year, and at the very period when these resolutions were voted, (the 18th of June 1782.) The honorable manager has mistaken, he perhaps has not read the transactions

actions of the time attentively: the resolutions were not proposed as declaratory of the law, they were brought in by the minister, and when introduced, the lateness of the session, it is said, did not allow time for the statute to be passed on the subject, and therefore they were brought in as a sort of pledge of parliament, for the adoption of the principles at a posterior date, or to engage them or their successors to resume the subject.

" Some of your Lordships will remember as a matter of personal observation, others as a matter of history, that a new source of events succeeded, and when the parliament met, they had something else to deliberate upon; and upon these resolutions the house never acted. They are put upon this preamble as if they were the law, when in fact they were only to be introductory of a new law, and is it to be said, that by the violation of these the individual is to be condemned?

" Even after these resolutions had been brought forward in the very sanctuary of liberty, a right honorable gentleman said twelve months after, he had considered the subject, with respect to very large amounts with which he was entrusted, that he had a right to employ the money, that he had often done so, and that all the nation had to expect of a public accountant was, that the money should be forthcoming when the exigencies of the state required.

" It appears, that when the subject was brought under the consideration of parliament, by the Attorney General, on the 25th of June of the same year, this great law officer said, that all he required was, that the balances should be correctly stated, and that the party should be called upon to pay interest for the money in his hands subsequent to his resignation. Thus we see that all the result of the deliberation on this subject was, that it was expected interest would be payable, and a civil right would be established. Even this civil right the parliament opposed, and the Attorney General, who brought in the propositions, was obliged to abandon them.

" Your Lordships are not unacquainted with the great lawyers of the day, and if the accountants had acted contrary to the law they would not have escaped its severity,

verity. *Mr. Wallis* said, that he found a difficulty as to the interest, to which it was conceived the public had a right from the great national accountants; but on reflection, he did not hesitate to declare that the public had no such right, and he should be supported by the long robe in his opinion. If the public were entitled to the interest, the public he argued ought to be liable for the failure of the securities. This was not the case, the party himself must answer for the deficiencies, and therefore should have the enjoyment of the interest.

"I might state many more opinions, in which such as rejected every idea of criminality, now were alarmed by dangers to the constitution, and to the freedom of the country; nothing of this kind ever entered the head of any one member in the sanctuary of liberty. There was one accountant who had no less a sum than 848,000l. and he publicly stated in his place, that if the balance were increased tenfold, he would make as much advantage of it as he could for his own private emolument.

"These were the arguments that prevailed at that time; but we are not confined merely to this argument; there is another analogous subject which I believe remains to this moment unaltered; I mean with regard to the balances in the hands of receivers-general of the land-tax. On the principle contended for, they ought to pay the money into the Exchequer immediately, and every hour they neglect so to do is a loss to the public. Your Lordships know that the annual act directs that the balances should be paid up, and they may be compelled to pay them. An honorable member then of the House of Commons, but now occupying a seat with your Lordships, stated the injustice of compelling the accountants to pay in their balances, and he shewed by arithmetical calculation, that if this were rigidly demanded in some counties, the place of collector would not be worth 15l. a year, and no man of character would accept the office. Did it appear to the noble Lord that this was dangerous to the constitution, and to the liberties of the country? No, on the contrary, the peril would be that no man of character would undertake the duty, and it was now to be said, that this use of the money is inconsistent with the practice of a man of cha-

racter. It was then urged that most of the collectors were bankers, and knew how to use the money, and that those who were not in that occupation placed the public money in banks, and derived a profit from such deposits.

"I am now speaking of the question independently of the warrant, and of the Act of Parliament, and the position I maintain is this, that there is no common law, directing or requiring a receiver of public money not to employ it for his private emolument. This does not apply merely to a Treasurer of the Navy, or a public officer; but money imprested to any man he is at liberty to use; it is to be returned in money at the proper time, but not in the identical pieces of gold received, as in the case of a piece of plate, or a gem, the identical articles are not to be returned. The error of the honorable managers is of this kind: they suppose that the same guineas are to be returned in *solido*, whereas, money is of a fugitive and fluctuating nature, and may undergo a thousand changes, without any injury to the party ultimately to receive it. All that a public officer has to do, is to render the money for the current service conscientiously and honorably, when that service requires it. By virtue of his office, this duty is cast upon him, and if he perform it, the public have neither any right, nor any interest to enquire to what certain uses the money has been applied.

"If this be not the case, the most respectable persons in the kingdom are constantly in the habit of infringing the law. Not only the family I have named, would have been exposed to this unjust obloquy, but almost all the rest of the most distinguished personages in the kingdom. The representative of Mr. Grenville himself desired two months to pay the balances due from that office. Why did he desire this interval, if the money were deposited in the Bank? The money was employed, and it was right that it should be at use for private advantage; and he thought it was consistent with his duty to avail himself of it.

"My Lords, it will be necessary, that you should take these reflections along with you through the whole case; because we have been borne down by the force with

with which the contrary principles have been pressed upon us. We have been told, that there was an existing law, which in fact, never had any existence, and by this supposed law, it was said to be enacted, that the money was to be locked up in a bureau or a drawer, and to be applied to no purpose of utility whatever.

" Such was the plan then, and I submit to your Lordships with great humility, that the law underwent no change, farther than as the warrant might please the party in a new situation.

" Now, with regard to the declaration in 1805, which related to matters not in the statute, although I might go one step further and alledge, that even the 25th of the King, in no clause of it, lays down any direct or positive principle on the subject; however, all I mean to state is, that there was no objection to the use of the money, and that these statuteable provisions, do not purport to take up these regulations, but on the contrary left the law on this subject, as it stood before.

" By the declaration of 1805, I refer to what the noble defendant said in the House of Commons, when he acknowledged, that he felt himself bound by motives of public duty, as well as private honor and personal convenience to conceal the application of the 10,000l. The fact appears to be, that there was a balance wanted for the public service; and it further appears, that not a farthing of it was wanting from that period down to the time when the whole of it was repaid. It was not only money which was not wanted; but it was money which would not be wanted, as appears by the evidence. The Ex-Treasurer was liable to be called upon, but at what period, is immaterial. It was added, that by the constant usage of the office, until the accounts were cast up, the balances were not paid: I have shewn it was the usage; it was so from the year 1765 to 1781, during all which time, the balances were with a noble family, to which I have referred, and it was expressly stated, that they had a right to retain them until they were regularly passed. The accountant is left to pass his accounts in the ordinary course, and when he has done so and not before, the balances are paid.

Then

"Then what was the fact with respect to the 10,000l.? It stood in this predicament. The Ex-Treasurer was the debtor for it, but he was under no obligation legal, moral, conventional, or otherwise, with respect to the place where it should be kept. He might have put it in his drawer, he was under no engagement whatever respecting it, but what appeared on the face, or the construction of the warrant.

"I deny farther, that the compact entered into, imposed any such obligation. In case of the transfer of an annuity, upon a condition implied, or expressed, the violation of the condition, if it be a grant from the crown, subjects the party to the forfeiture of his civil right, and exposes him to civil consequences. In the case of a private individual, the breach of a condition creates no crime. But I do not mean to go the length of saying, that in some instances it may not; all I assert is, that the obligation does not necessarily have this effect.

"But the warrant, whatever may be the condition, is only co-extensive with the office, and cannot be referable to the ex-treasurer; and such was precisely the situation with respect to this balance, for the noble person was then perfectly independent, and sustained no character like that of servant to the crown, or the public. But this independence did not relieve him from the claim: he was liable at all times to pay the money when it was called for, according to the regular course of office: and if, when so applied for, he refused to satisfy the demand, he would have been guilty of a manifest violation of duty. But that is not the present case, for when called upon, he paid off the balance. Yet before your lordships he is required, not to render an account, not to discharge his balances, but to answer a criminal charge for having made a corrupt use of the money. In what a different situation are we thus placed from an individual, who is called upon by another, to answer for a civil right.

"But his lordship, in his declaration in the Commons, would not disclose how he had applied this money. On this subject he was silent. Was it ever heard of in this country, that a man was criminal for being silent? Is he

for this responsible? If this be the nature and extent of his offence, his lordship is perfectly safe in your hands. He said in terms, that on this subject, he would make no communication. We are told, that the greatest privilege they enjoy in this sanctuary of liberty, is freedom of speech, and when Lord Melville is brought thither upon his defence, do they mean to attach his words?

"What is the conduct of every court when a man is brought before it, charged with the highest crimes; what is the conduct of every humane magistrate in the kingdom? They say to the accused, 'You are allowed to say what you please, but it will be, perhaps more discreet that you say nothing. If, after this caution, you say any thing voluntarily, it shall be noted down.'

"But since the constitution was established, did it ever enter into the head of any man in England, that the person accused should not be permitted to exercise his own prudence in the confession he should make.

"Of what has this noble defendant been guilty? They may say on this occasion he was thoughtless and inattentive; but is he for this to be indicted for high crimes and misdemeanours? What he told you was perfectly voluntary; to communicate, or to withhold communications, he was as free as any subject in his Majesty's dominions, and what he said cannot be an indictable offence in any court within the realm.

"Why was he silent—to protect himself?—No, for his concealment was no crime. But what was his motive?—My lords, the motive speaks strongly to every British heart. He tells you why he was silent; because he was constrained to be so, from motives of public duty, private honour, and personal convenience. Can the most malicious ingenuity discern any guilt in such motives? His lordship distinctly says, that he has not applied the money to any corrupt purposes, but he abstains from discovering the precise direction of the money, from motives which are, and must be, obligatory upon every honourable mind.

"But they say—why conceal it, if the application be justifiable?—Why not speak out?—I will suggest this, and the other, and a thousand corrupt motives, if you will

will not proclaim it. If you preserve this taciturnity, our suggestions, and your silence, without proof (observe, my lords), shall substantiate these charges.

"My lords, the intelligent mind of the noble defendant perceived the delicacy of his situation. It was severe, it was hard, it was perilous. He was aware of the obloquy to which he should be exposed, of the suspicions which his silence would engender. He knew that the concealment of what he was bound in honour not to reveal would render him liable to great embarrassment, but he was willing to encounter all these consequences, and preserve his integrity.

"A sum of 40,000*l.* devoted to a peculiar purpose, lately attracted the attention of Parliament. The evils which would have resulted from the disclosure of that transaction, at the time when it took place, have been shewn. This is one of those occasions in which a great and illustrious statesman, now no more, deemed secrecy necessary in common with the noble defendant. Supposing circumstances had rendered the perpetuity of the secret expedient, would the noble defendant have betrayed the cause in the defence of which he boldly stood forward with his departed friend; would he not rather carry the secret with him to the grave, and expiate in his own person the imputed crime?

"What was insinuated with respect to that sum, has been transferred to the present, and it has been said, that it was gone to Scotland to buy boroughs. It was easy to invent and to conjecture, but the disclosure regarding the 40,000*l.* has shewn the absurdity of all this indulgence of a heated imagination.

"On an occasion of this kind, I may appeal to your lordships with peculiar confidence and satisfaction. Will any one of you say, that there is ground for suspecting that this money was not applied to a meritorious purpose by the noble defendant, sustaining a great public character, placed in a lofty situation, ardent for the public good, and at a moment when the country was filled with domestic enemies, when the safety of the state was so critical, that there was a necessity for great liberality, as well as consummate wisdom, in the conduct of the extensive government; and, I trust, I may justly add,

that to his personal exertions in a great degree may be attributed the security of the British empire.

"I have said, that it is as easy to suggest honorable as disgraceful motives, and, my Lords, at least in a criminal court you will consider suggestions by the accused to have equal verisimilitude with those of the accusers. It cannot be a crime to apply money to an unknown purpose, because an unknown purpose cannot be construed into a corrupt purpose and the corruption constitutes the offence.

"But, my Lords, is it criminal to apply the money to any but a naval purpose? This cannot be contended on the footing of a warrant, it must be argued upon the general principles of common law, which are obligatory upon all. Do they mean to affirm, that to apply it to any other than a naval purpose is a violation of the Act, and that it was not competent to the Treasurer therefore to do so? I have broadly maintained, that prior to the act, while it was in the custody of the Treasurer of the Navy and not required for public service, he might devote it, at all times, and under all circumstances, to his private use, if he were ready to return it to answer the exigencies of the state.

"I shall now consider a little the corrupt purpose attributed to the noble defendant. What evidence is there upon this part of the case? Not a tittle of evidence. The only testimony which bears at all upon the question, is that of Mr. Trotter, and that of the honorable manager, to which I shall advert in its order.

"With regard to Mr. Trotter, he has proved nothing, but that he had the balance in his hands.—Did Lord Melville know that his Paymaster applied it to any private purpose?—The witness says distinctly, that Lord Melville was unacquainted with his employment of it.

"In respect to the evidence of Mr. Whitbread, I am under some difficulty: not at all from the bearing of the testimony, but because he alternately appears in the character of witness and manager, and dividing himself between the two, I hardly know to which to address myself. This interchange may however be a sort of counterpoise to the transmutations on the other side, from Mr. Dundas to Henry Dundas, the Right Honorable Henry

Henry Dundas, or any other appellatives by which the noble defendant was distinguished.

"Mr. Whitbread says, (for I shall now endeavor to speak of him in his character of witness), that what he deposed was the result of his impressions, when he was listening to Lord Melville, for the purpose of answering him. He was not attending to the mere facts, but was watching with the design to accuse. These evanescent impressions were blended with the feelings and passions of his mind. Supposing only a laudable zeal in the honorable manager, he would not be precisely the witness whose evidence you would consider most satisfactory. We were led to expect, indeed, that we should have had some written testimony, but the whole of the case rests upon a single unsupported diction of the honorable manager.

"I sought a little further confirmation, but it was in vain, the honorable manager had not brought his notes with him, he did not know where to find them, and if he could have found them, he should not have understood them, for they were made in the hurry of a moment for a particular purpose. Mr. Whitbread, however expressly stated before your Lordships, that the noble defendant in the same breath declared, that he never had derived any advantage or emolument from the use of the public monies.

"Then the corruption charged is positively disproved by two witnesses, and I am sure, my Lords, that I need not add, that it would afford to this court abundant satisfaction if any collateral confirmatory evidence should strengthen this part of our case. You know something, my Lords, of the industry which has been employed, and of the activity that has been directed in the support of this prosecution. Months after months have been engaged in ransacking every corner of the kingdom, and every letter, and copy of a letter which has been writen to, or by the defendant; all the papers in the great public offices have been deranged and inspected, even the garrets of widows and orphans have been plundered, and this honorable manager has added a third character to those of manager and witness, and has transformed himself into a box porter. And, my Lords, what is the result

sult of all this enthusiastic zeal and indefatigable exertion? They are not able to produce an atom of proof that any public money was employed by Lord Melville, or that by the use of it, his fortune had been augmented a single shilling. What, not after having stripped him bare to the bone, after having turned every farthing he had in the world, looked at every figure in his account, sifted every thing to the bran; after all this, can they discover nothing converted to his private advantage! What is the inevitable conclusion from all this, but that nothing was so employed for his private use, all was directed to public purposes, and there is an end of the case.

"The honorable and learned manager (Sir Samuel Romilly) tells us, that at the time when the other charges were framed, the grounds of the tenth article were not known. He says that it was only from the extreme desire of fairness to apprise the noble defendant of the precise subjects of the charges, that this was prepared, and when reduced into the form in which it now appears, he would know precisely those parts of his conduct which he had to defend.

"I am afraid it will be discovered that the learned and honorable manager from the benevolence of his own personal feelings, has a little mistaken the matter, and that the motive of this additional article was some deficiency in the general charges, and not that pure humane principle to which he has attributed it. Although I am disposed to be thankful for any concessions made to the noble defendant, yet this circumstance at least, has not conduced to supply my mind with impressions of gratitude. This is a sort of candour and fairness with which I should gladly have dispensed. Lord Melville might have had a notice of the intention, without being required to sustain the weight of this heavy charge, if this candour and fairness was the only object. We have a new construction of the terms candour and fairness, if these be applicable to the act of giving to the accused an additional charge to repel.

"But let us see for a moment, what assistance the noble defendant is to receive from the terms of this article. One facility afforded him would be to state the particular time when the offence was committed; the day,

day; hour, and the like. How is it distinguished here? It is stated to be from the 19th of August, 1782, and from the 5th of January, 1784, and then again, from the latter date to the same month in the year 1786. It seems calculated to confound all dates, instead of ascertaining the period when any particular offence was committed. The same obscurity occurs with respect to the sums, the taking of which constituted the offence. We might, I think, have had a more specific explanation if candour and fairness were the object. This candour and fairness is not employed to ascertain the dates and limit the amounts, but it extends to both the one and the other. In fact, the article makes the defence more obscure and confused than it was before; and whether the defendant be a Treasurer, or an Ex-Treasurer, all is dark and confounded. The Right Honourable Henry Dundas went out of office in 1783, and was Ex-Treasurer for the term of nine months, and the article charges, that he took monies with him either as Treasurer, or Ex-Treasurer. Which is it? 'Find it out, I'll not tell you,' says candour and fairness; and the same fairness and candour, attended with the same uncertainty, proceeds throughout the charge.

"I have already said, my lords, that the condition of the warrant can apply only to the time when his lordship was in office: and I will suppose, for the sake of argument, that during his ex-treasurership he made private use of the official money: it is quite clear, that then he could not be under the general obligation implied under the warrant: I am sure, my lords, you must see the extreme difficulty to which this defence is exposed, in consequence of the looseness, irregularity, and want of precision in the terms of the charge.

"Then, with respect to the arithmetical evidence, what does it all come to? It brings you to four things. With respect to all these, what is the final result? He is charged with dabbling in the public monies, and employing them for his private use.

"I would ask of your lordships, if there ever was such a charge adduced in any place of jurisprudence, civil or criminal at the distance of twenty-four years?

"I shall not, my lords, travel through all the evidence which

which applies solely to the transit of the monies from place to place, and not refer him to any particular depositary private or public; as in the hands of Messrs Muir and Atkinson, and its passage from thence to the different situations into which it has been pursued. Neither need I speak to the accounts in the Bank, under the different heads: and if they had proved the 10,000l., or any sum of this kind, it would not have supported them an iota in their pretensions; the whole is founded upon this provision; that there was an obligation at that time, to keep the money in the Bank, and in a particular mode, viz. under one head, without being transferred to another.

"The whole evidence upon which your time has been occupied so many days, shifting the scene between Scotland and London, Threadneedle-Street, the Strand, and Charing-Cross, I contend was irrelevant; the whole money might have been with Muir and Atkinson, or with any private individual, and thus easily can I dispose of this transfer from house to house, which supplies volumes on your minutes. An ex-treasurer cannot hand the balance over to the treasurer of the office, or if he sustain both character of treasurer and ex-treasurer, he cannot transfer his balance so as to make him discharged from responsibility in one character and not in the other.

"I must express my astonishment at the honourable managers, that with their acumen, and general knowledge, they should so frequently have confounded things perfectly distinct, and have supposed, that an account with the Bank of England was necessarily a public account. Any individual may keep an account at the Bank, and all this was as innocent as transferring the money from drawer to drawer; it was left to the discretion of the Paymaster, who was managing all their business, and who was competent to keep it, either in the one place, or in the other.

"If now I have made myself intelligible upon this subject, I beg your lordships to observe, that it applies to the whole of the evidence. All this is nothing more than the history of the carriage under different circumstances; if the deposit here or there were prudent or not is not the enquiry; it is enough for me to state, that there is not a

tittle of evidence of any profit or emolument that was ever derived from such transfer from place to place, and it is only corrupt emolument which constitutes the guilt. If there be the absence of all proof, your lordships cannot supply it, and this part of the charge is disposed of.

" This then, carries us back to the year 1782, and here, the whole will depend upon what is taken from the Exchequer, and conveyed into Messrs Drummond's bank; and I am told, that I shall not be able to give to your lordships any answer to this part of the case, and that the charge of corruption against Lord Melville in this particular is indisputable. Notwithstanding this confidence, I am convinced that your lordships will not consider that the noble defendant merited this bold accusation.

" Do you believe that Lord Melville has made private use of the money? Why are you to give credit to this? Because he is not able, after the expiration of twenty-four years, occupied as his mind has been during the whole period by the great affairs of state, to explain from memory the particulars of these transactions. At no period of his life was he in the habit of attending to such business; his understanding was not adapted to it; his mind was completely filled with the concerns of empire, where abundant exercise was given to the extraordinary energies of his nature. I put it for your lordships, if you will condemn this defendant because he cannot explain two items of account of 1000l. each, after the lapse of nearly a quarter of a century.

" What is the testimony? When the witnesses were called, they were asked, " Have you any recollection of the business, so that you can trace on your memory any rational and consistent account of the transaction? To this, no satisfactory answer is given, your lordships are not at all informed if Mr. Douglas did carry the money to Drummond's; no witness can explain it, and when they are in the box, they tell you that there is no possibility of their having any remembrance on the subject.

" What is the use that is made of this sort of testimony? Why they say, that unless we can explain what their own witnesses cannot explain, what no man living can explain, then we are guilty.

"My lords, their witness is dead and gone, and how can they supply the deficiency of evidence by conjecture with any success before your lordships?

"Then what is the strong temptation which influenced the mind of the noble defendant thus to surrender his conscience and his honour? For the purpose of saving a miserable pittance of interest, for the very short period during which this account was overdrawn.

"The account with the bankers, I believe, was not overdrawn until June 1785. Messrs Drummonds then sent a notice, according to the regular custom of the house, that the account was so overdrawn. The two entries which immediately follow the notice of this excess on the debtor's side against Lord Melville, I am sure were overlooked by the honourable managers, or else they would not have insisted with so much triumph on this part of their case. As early as could be likely to be convenient after the notice, viz. in October following, Lord Melville made a remittance, which appears in the situation I have stated in the account of Messrs Drummonds. The whole sum to his lordship's credit is 5,600l., composed of two remittances from Scotland, the one for 2000l., the other for 3,600l. Would it be believed by any person at all conversant in the ordinary affairs of mankind, that Lord Melville, such as I have described him, and possessing the qualities which the bounty of nature and the advantages of education have given him, would put his hand into the public purse for such a poor compensation, when he had these resources to supply the trifling deficiency of his banker.

"It is in evidence on the trial, that there were immense balances which were not wanted for the purposes of office, of which he never availed himself; and is not this the most decided proof of his innocence, as to a crime of this nature, that can be adduced in a court of justice?

"If he had brought his mind to that state of degradation which leads it to seek its delight in lucre, he would have dealt largely with the public money; he would not have sold his public fame, the idol of his existence, to pick up minute sums of interest at a banker's.

"Can it be denied, that the payment of 5,000l. into

the Bank (I am availing myself of the evidence for the prosecution) I say the payment of this sum, when it was not required, negatives all I hear of corruption? It was not necessary that he should have paid this large sum. What does he do to make this voluntary payment? He goes to Scotland, takes up his private money, which he must have done at a considerable loss, and he resorts to this in preference to having recourse to the public property.

"I have not deemed it expedient to notice some parts of the evidence which went into the identity of the notes with so much ostentation as if we were trying a criminal here, for forgery on the bank of England. The identity of the notes proves nothing. Supposing Mr. Douglas, who seems to have been the person who received Lord Melville's money, had taken up an amount from the Exchequer, and had paid a part of it into Messrs. Drummond's bank, what then? why might he not pay any sum into Messrs. Drummond's, on account of Lord Melville, as agent in his concerns? What does the identity of the note prove? It only shows that he paid a particular sum into Messrs. Drummond's, which he received at the Exchequer. The result is only this, that there was a mixture of the public and private accounts of the noble Lord, but it furnishes no evidence of the allegation, that there was a corrupt intention in the noble lord. This short observation will convince your lordships, that the inference drawn by the honourable and learned manager might be, and was extremely incorrect, and will tend to this negative proof, that Lord Melville had not any advantage of the public money, even to the amount of one shilling. Nor would the charge apply, if not only one shilling, but many pounds were put to his account for his benefit, if it should appear that it was the act of others, and not his own, and without his knowledge and consent, it will be sufficient completely to exonerate him.

"With regard to the concealment, the honourable manager refers to a case in chancery, before Lord Eldon, which does not appear to me to apply to the present. There, when Lord Eldon adverts to a general proposition, he says, that nothing can be more mischievous than that this court, at the end of eighteen or nineteen years,

when no account has been kept, should admit that irregular documents should supply the place of regular evidence, and it was said, a strict hand would be held over pretensions of that kind.

" Now I would enquire, at the distance of twenty-four years, after all living testimony is laid in the dust, after you are informed that the detail of business is in the Paymaster, and not in the Treasurer, I say, I would ask, after all this, if it were possible upon such incoherent testimony, that your lordships would pronounce the judgment for which they contend. I am confident, that on this grave occasion, you will not suppose that was wilfulness which was mere negligence.

" With regard to the continuance of the balance in hand after a certain time, to this, I do not know that it is necessary I should make any reply, because, if the honourable manager who opened the business did represent this as criminal, the honourable and learned manager who summed up the evidence did not venture to confirm such a representation.

" Upon any of the predecessors of Lord Melville there was no obligation whatever to convey the money to the Bank, and it was the same with his lordship; there was nothing binding with respect to the place to which the money should be brought previous to the statute.

" My lords, after this general view of the facts and the evidence, before the passing of the act, I shall next draw your attention to that law which the noble defendant is said to have infringed. My lords, in order to improve the story, as applied to Lord Melville, we have had a long parliamentary history by whom it was brought in, and by whom it was carried out, and I confess, this is the first time I ever heard such a narrative in support of a criminal proceeding.

" The second article states, that ' the said Henry Lord Viscount Melville, disregarding the duties of his said office, and in breach and violation of the said act of parliament for better regulating the same, did, after the passing of the said act, and while the said Henry Lord Viscount Melville continued to hold and enjoy the said office, connive at, and permit and suffer the said Alexander Trotter under, and by virtue of the said authority so given

given to him by the said Henry Lord Viscount Melville, as aforesaid, illegally to draw and receive and take from the governor and company of the Bank of England for other purposes than immediate application to navy services, large sums of money from and out of the monies before then issued unto the said governor and company of the Bank of England on account of the said Henry Lord Viscount Melville as Treasurer of his majesty's navy; and the said Henry Lord Viscount Melville did connive at, and permit and suffer the said Alexander Trotter to place the said last-mentioned sums of money, or a great part thereof, so illegally drawn, received, and taken by him from the governor and company of the Bank of England as aforesaid, in the hands of Messrs. Thomas Coutts, and Co. the private bankers, in his own name, and subject to his own controul and disposition: all which conduct of the said Henry Lord Viscount Melville was contrary to the duty of his said office, and a breach of the high trust reposed in him and a violation of the laws and statutes of the realm.'

"Here are matters noticed not in the act itself but resulting from their construction of the act. This charge applies to the bare transfer, not stating that it was done for corrupt purposes, not even for private purposes, but merely, for other than naval purposes. The objection is, that the money was carried elsewhere before it reached its destined object for naval purposes, although it was at Coutts's for naval purposes, although in the iron chest for such purposes, yet the not having it at the place of deposit here specified is declared to be a high crime and misdemeanor, and an act contrary to law under this particular statute.

"Now, my Lords, with great deference this position I deny. I deny the inference drawn, and the construction of the statute to be correct. The noble defendant has suffered a great deal of popular clamor, that he, the author of this act one day, should be the the breaker of it the next: that he who carried the reform into parliament, did not also carry it into execution; and we have heard much of the public disappointment on this occasion.

"Let us, my Lords, attentively enquire in what manner this supposed delinquent has violated the law. Unless I have

I have greatly mistaken the act, in every clause and word of it, I say there never was a clearer case than this—that what Lord Melville did, was not a breach either of the letter or of the spirit of the law. It was not in the least opposed, either to the one, or to the other; and yet you are called upon to convict Lord Melville under a charge of its infringement. My Lords, if the construction of the law, given by the honorable managers be accurate, and if I may presume to speak on a breach of legislative duty, you ought not to delay an hour, you ought this moment to repeal it. Nay more, this act, if such be the meaning of it, is broken every day, and every instant by the most meritorious class of men. If it were not violated, public business could not go on. If his Lordship had recommended to the parliament such a statute as they suppose, he must have been the occasion of introducing one of the most destructive acts, that ever disgraced its annals.

"In observing upon this, I shall abstain from what is irrelevant, or from the consideration, whether Lord Melville, then Treasurer of the Navy was, or was not the framer of this act? The doctrine upon the part of the prosecution is, that there is but one place of deposit for the public money, and that the Bank is the sole place of such deposit. This, my Lords, is the language to the preamble to these charges. The construction which the act can correctly receive, proceeds no farther than this: that the money should issue from the Bank to the persons who may be credited of the public. It could never be contended, that the act was designed to authorise the paymaster to have money in his custody, still less, the subordinate officers to have such money in their hands, and not to grant the same permission to the Treasurer. You would suppose, that the parliament was less doubtful of the fidelity of the inferior dependants, than of the superior officers; and you will with difficulty suppose, that the intention was, to give an advantage to the one, which it denied to the other. It could not be said, that the restriction should be upon Lord Melville and the Paymaster, and should not extend to the menials of the office.

"My

" My Lords, the question is simply this: if there was any other place of deposit but the Bank, and the pocket of the public creditor; or if there was some intermediate place of custody.

" Now, upon the face of the act, there is no preferable place of private deposit. I admit that there is no such place particularly distinguished, but their argument is universal and unqualified, and they say there is no such place at all.

" Now let us see what was the course of office before the act, and if the nature of the duty required that the same should be continued. If no alteration was made, probably the true construction of the act will be consistent with the course of office which existed before.

" The course of office was this: the Treasurer by his Paymaster, drew for money to raise a fund to be distributed among different persons. For example; he drew on the Bank for 1000l. that sum is disposed of, 500l. to one, 300l. to another, 200l. to a third exercising his discretion, as to what sums he thus applied, keeping constantly in his view the best means of carrying on the public service.

" You have it in evidence, that the demands were numerous, and it appears, that in January, 1785, before the act, a multiplicity of small payments below nine or ten shillings, were daily called for. They were applied for by sailors, who had neglected to put in their claim at the out-ports, and by their widows and families, in consequence of the wise and humane regulations made by the the noble defendant. The money was to be doled out to them in small sums. Now we will suppose that all these claimants, from day to day are to be sent to the bank to receive payment: that is, a sailor, his wife, widow, or child, were to receive nine or ten shillings, or a yet more trifling sum, are to be sent to the Bank, and to go through the various checks of office in that vast establishment: for, we are told, that the same particularity is preserved, whether the sum be ten shillings or ten thousand pounds. The sailor then, when he has gained admission to the office at Somerset Place, is informed they have no money, but they say, go to the Bank, and take this draft. The sailor would reply, " I shall not go there, I cannot tell where

where it is." Or, if he should forsake his natural character, and become a man of business, and present the piece of paper at the Bank, I would ask of the honorable managers, how by these means, the payment would be facilitated?

"If this had been the course of office, it would have been wholly obstructed, for the consequence must have been, that all demands in this form, below twenty shillings, would not have been satisfied at all.

"I will explain myself by referring to a public act that is now in court, and which renders this mode of payment impossible. On inspecting the 15 Geo. III. cap. 51, your Lordships will find, that all drafts under twenty shillings, are prohibited and illegal. Then the answer to these numerous claimants at the office must be, 'We cannot give you the money, because we must not break the law. You are not to be paid at all, because all payments from this office must be made from the Bank.'

"The 17 Geo. III. cap. 30. extended the prohibition to drafts under five pounds. My Lords, all this shews clearly, that it could not be the intention of the legislature to put a negative upon the established course of office, and by ordering payments from the Bank under such circumstances, to deprive the subject of his money earned in the service of his country.

"But now, as to the words of the act. The whole mistake in the construction, arises from not attending to the distinction between the original and primary place of deposit, and the place of continual deposit. When this act is rightly understood, it will appear one of the most beneficial legislations on the statute book, both in the spirit and the letter extensively conducing to the public good.

"One great evil before the passing of the act, was that the monies were transferred to persons who were Ex-Treasurers, and who were consequently under no legal obligations of office. Besides the Ex-Treasurers retained their balances for a long time, and hence it became an important object, that what was retained in private hands, should be returned into the public coffers.

"Another material purpose was, to prevent the issue of public money from the Treasury, a single hour before it was wanted. The Exchequer should receive the money,

ney, as soon as possible from the individuals who were the debtors to the public, and when so deposited, it should not be drawn out, until the public service required it.

"These, my Lord, were the wise provisions of this statute; that the Ex-Treasurer should transfer all his balances and pay them up, and that the money should not be obtained until it was required for public purposes; in a word, that all the amounts should be official, not personal.

"Another collateral object of the act was, to diminish the balances of the Treasurer, by not permitting him to draw until the appropriation was determined.

"Heretofore, it was to the Treasurer the monies were first issued, but under this statute primarily, they are to go to the Bank, from whence they are to be extracted by certain checks, preventing again by a new contrivance, the issue of more money than the service required. The act said, 'You, the Treasurer, shall not be permitted to take the sum demanded, without stating the nature of the service to which it is applicable.' Then there was a farther provision which regarded the controul of the office, and it was directed, that, 'When you have got money in your hands, you are to communicate to the Navy Board the issue, and to transmit an account from month to month to the same authority; that you may never have balances in you hands unexplained.'

"All this is for the purpose of regulating the primary issue from the Exchequer to the Bank: and, my Lords, I do distinctly admit that the Bank is the first place of deposit, and that in the first instance the money must be delivered there.

"But what afterwards? The Treasurers are to draw upon the Bank, but they are not required to send all the claimants to the Bank for payment, and to draw only in the names of the payers. There is not one word to this effect, not a syllable in the act, but what is perfectly consistent with the nature and the ends of the office.

"I will now enquire, if there be, or be not a right incident to the Treasurer of drawing upon the Bank for the public service?

"The fourth section is this, 'And be it enacted, that the Treasurer of his his Majesty's Navy, for the time being, by himself, the person or persons in his office duly authorised by the said Treasurer, from and after the 1st day of July 1785, shall draw upon the Governor and Company of the Bank of England for all navy services whatever, and shall specify in each and every draft, the head of service for which the same is drawn; and no draft of the said Treasurer, or the person or persons authorised as aforesaid, shall be deemed a sufficient voucher to the said Governor and Company of the Bank of England, unless the same specifies the head of service for which it is drawn, and has been actually paid by the said Governor and Company of the Bank of England.

"By this section, my Lords, the Treasurer, or his attorney, is to draw and the head of service is to be specified. This clause refers evidently to the existing course of office; and it appears to me, no words can be more clear, and no meaning can be more obvious. What does it convey? The course of office, by means of drafts on the Bank. Drafts in favour of whom, or what? Of an individual? No, it is not so stated, drafts in favor of a head of service. 'And shall specify in each and every draft, the head of service for which the same is drawn.' It was not, and it could not be intended, that drafts should be drawn in favour of private individuals. There is no limitation, but it must specify the head of service.

"I believe, my Lords, you will find these observations incontestible, when you compare this very act with a modern one, in which the legislature intended to impose a restriction, or to deprive the party of the power of drawing in the aggregate, and to prescribe to him a particular plan. I refer to the Treasurer of the Ordnance, with whom they have distinctly regulated this very point; and have said, that he cannot draw in the aggregate, but in favour of the individual, and that he never shall make payments in any other manner, but when he has express liberty, from the Board. When parliament intended this limitation, they knew how to express it, they have not extended this limitation to the Treasurer of the Navy, they have to the Treasurer of the Ordnance, and as

as I trust, will fortify under the high authority of the legislature, the argument I maintain.

" In the first clause, the Treasurer of the Navy is directed to certify to the Commissioners of the Navy an account of the whole receipt under the respective heads of service, and also to certify to the Commissioners of the Victualling and Sick and Hurt Boards, the particular sums received, and applicable to those services respectively.

" Thus, he is to keep an account of all monies paid to him. But why keep an account of what he is never to have? According to the instructions of the Honorable manager, he never can possess himself of any. He is here by implication authorised to receive them, by supposing he is to render an account.

" I am afraid, my Lords, I am tedious upon the construction of this act, but it was material for the case of the noble defendant, and you have seen in what I have stated, that I am confirmed by the course of office, and by the construction of the legislature itself, so far as it can be collected by analogy.

" I have not now anticipated that part of the argument which relates to the use of the money: I am only enquiring into the statute in the abstract, and considering the true construction upon the face of the act itself.

" Whether the paymaster have applied it after it was taken from the Bank, is a different question. I am simply examining whether it may be conveyed under the terms of the act, from the primary place of deposit, or to private hands under special circumstances: and I contend, my Lords, that what I have mentioned, is the fair import of the act.

" The third section is this:

" ' And be it further enacted, that from and after the first day of July, 1785, no money for the service of the navy shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed or directed to be placed in his hands or possession; but the same shall be issued and directed to be paid to the Governor and Company of the Bank of England and to be placed to the accounts above-mentioned according to the service for which it is ordered and issued.

" The fifth section is this :

" ' Provided that the monies to be issued to the Governor and Company of the Bank of England on account of the Treasurer of his Majesty's Navy, shall not be paid out of the Bank unless for Navy services, and in pursuance of drafts to be drawn on the Governor and Company of the Bank of England, and signed by the Treasurer of his Majesty's Navy, for the time being ; or the person or persons, authorised as aforesaid ; in which drafts shall be specified the heads of service to which the sums therein mentioned are to be applied ; and which drafts so drawn shall be sufficient authority to the Bank to pay such money to the persons mentioned in those drafts or to the bearer of them.'

" Both these relate to the primary place of deposit. No doubt, on the whole act, all the money is to be carried in the first place to the Bank, and to constitute a head there ; and the method is specifically pointed out under what circumstances it is to be drawn in the section I have before read.

" I beg pardon for omitting to make this observation in its proper place, so clearly as was necessary.

" I have now disposed of three of the articles of this impeachment ; the seven which remain, proceed on one general ground."

The Lord Chancellor interposing, desired that the farther observations of the learned counsel, be deferred until the following day.

TWELFTH

TWELFTH DAY.

WEDNESDAY, MAY 14TH.

MR. PLOMER, IN CONTINUATION.

"I SHALL now, my lords, proceed to an examination of the different articles. The third, states the fact of the public money, being removed from the Bank, and then says that Lord Melville did, after the 10th of June, 1786, illegally connive at, permit, and suffer Alexander Trotter under and by virtue of his authority given to him, to draw, receive, and take from the Governor and Company of the Bank of England, for other purposes than those of navy services, large sums of money, and place them in the private bank of the said Alexander Trotter. It then states, that this was done by the permission and privity of the defendant, and that Mr. Trotter did misapply the said sums of money placed in the hands of Messrs. Coutts, whereby they were used for private purposes. It then adds, that the permission of Lord Melville was a breach of the great trust reposed in him, and a violation of the laws and statutes of the realm. It is not charged against his lordship, that he was negligent in the discharge of his duty, or that by not keeping a vigilant eye over the conduct of the paymaster, the latter was enabled to commit these abuses; but it is, that the defendant wilfully, knowingly, and fraudulently connived at, and committed these abuses.

"The impeachment, my lords, does not on any part of it, proceed upon any omission or inattention of Lord Melville, but the charge is of a much higher and more criminal kind, not what he omitted to do, but what he actually and personally did. It says, that he was acquainted with the frauds, and, for corrupt purposes, confederated and participated with Mr. Trotter. It states, that they

they confederated themselves, and by that means committed a gross breach of public duty.

"The next article is the fourth, and charges, that while Henry Lord Viscount Melville enjoyed the office of Treasurer of the Navy, he did connive at, and permit that certain sums of money, issued from the Exchequer, should be placed in the hands of Mr. Mark Sprott, and other persons. Here likewise his knowledge and privity to the placing of certain sums of money in the hands of an individual, are expressly stated: it does not say, that it was done through carelessness or want of due vigilance in his duty, but it says it was done positively with his privity and consent.

"The fifth article, my lords, relates to a distinct subject of a sum being taken to the amount of 10,000l. from the public money at the bank of England, and applied to the defendant's own use, or some other corrupt and illegal purpose. Here the corrupt and illegal purpose to which the money was applied is expressly made a part of the charge against Lord Melville. Not that the purpose is not yet disclosed, but the prosecutors take upon themselves to say, that it is known to them, and that they can prove, that such purpose was both corrupt and illegal: They, my lords, are bound to shew it; this, however, has not been done, and that part cannot apply.

"The sixth article more closely attacks the reputation of Lord Melville. It commences by stating, that books were kept by Mr. Trotter containing the account between the noble defendant and him, and receipts for different payments. I wish, now, my lords, to draw your particular observation, because the charge then, dropping the subject of the books, takes up another transaction, viz. the release or agreement between these parties, wherein it is stated that they had mutually delivered up to each other, or resolved and agreed mutually to cancel or destroy all the vouchers and other memorandums and writings that at any time heretofore might have existed, passed, or been interchanged between them relative to the said accounts; and the different items and articles of which the said accounts were composed or consisted. This passage interposes between two distinct sentences, and after its conclusion the subject of the books is resumed.

sumed. It says, books of account with other vouchers and memorandums, were destroyed by Lord Melville and Mr. Trotter; that, my lords, is the averment which the prosecutors have undertaken to prove. It farther adds, that the said books of accounts, vouchers, memorandums, and writings, were so burnt with a view to conceal and prevent the discovery of the several advances of money made by Alexander Trotter to Lord Melville.

"I have taken the liberty to attract your lordships' notice more particularly to this article, because the subject of the books is so intermixed with that of the release, and because it was stated in such an irregular manner: first the books of account are mentioned, then we hear of the release, and again the subject of the books, as if the release was intimately connected with them, and the consequent destruction of all the writings.

"The seventh article, my lords, relates to advances of money made by Mr. Trotter to Lord Melville. It states, that Lord Viscount Melville did receive and obtain and procure from Alexander Trotter, the sum of 22,000l. or some other large sum or sums of money, so as aforesaid illegally drawn from the Governor and Company of the Bank of England by the said Alexander Trotter from the public money. Another part whereof was drawn from a mixed fund, composed as well of public money in the hands of the said Messrs. Coutts, as of the proper money of the said Alexander Trotter in the hands of the said Messrs. Coutts, which had been mixed therewith, and remained undistinguished therefrom.—It then, my lords, proceeds upon simple facts, without making the least mention that this was done with the knowledge and privity of the noble defendant.—It concludes, that, for the purpose of more effectually concealing the said advances of money, the books of account, vouchers, memorandums and writings, were so as aforesaid burnt and destroyed.

"My lords, the eighth article charges, that, among other advances of money received by Lord Viscount Melville, he had a sum of 22,000l from Mr. Alexander Trotter.—And then, my lords, follows this most singular and novel allegation, "and for which it has been alledged by the said Henry Lord Viscount Melville, that he was to

pay

pay interest, and for the purpose of more effectually concealing which, the said books of accounts, &c. were burnt and destroyed.' This, for aught that appears to the contrary, may be a loan from one friend to the other, without mentioning from what fund the money was advanced; but that is in point of fact, merely the declaration of the noble defendant.

"The ninth and concluding article states, 'that during all or great part of the time, the said Alexander Trotter held and enjoyed the said office of Paymaster to the said Henry Lord Viscount Melville as aforesaid, and the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of His Majesty's Navy as aforesaid, he, the said Alexander Trotter, did gratuitously and without salary, or other pecuniary compensation, act in, and transact the private business of the said Henry Lord Viscount Melville, in that respect to the amount of 10,000l. to 20,000l. or to some other great amount, and which advances were taken from the said sums of money so placed by the said Alexander Trotter in the hands of the said Messrs. Coutts and Company, consisting in part of public money, drawn by him from the Governor and Company of the Bank of England as aforesaid, and in part of his own private monies mixed therewith and undistinguished therefrom as aforesaid, by means whereof the said Henry Lord Viscount Melville did derive advantage from the aforesaid illegal acts of the said Alexander Trotter.'—It then proceeds to say, that Mr. Trotter continued to act without salary, making advances to Lord Melville on condition that the noble defendant would connive at, and permit the use of the public money to the purposes of private advantage. It then goes on to assert, that this was done with the privity of Lord Melville, and to state that it was in breach of the high trust reposed in him, and in violation of the laws and statutes of the realm. It concludes, that by all and every of the aforesaid acts done by Lord Melville, he is guilty of high crimes and misdemeanours.

"Thus, my lords, it assigns two motives for the concurrence of Lord Melville in the use of the public money. First, because Mr. Trotter would act as his private agent without salary, and, secondly, because he might

might receive advances for his convenience from time to time. These advances, as made from time to time, the House of Commons contends were to the amount of from 10,000l. to 20,000l. and were drawn from a mixed fund, composed partly of private and partly of public money.

" I have stated these articles together, because I concurred in the opinion of the learned manager who summed up the case for the prosecution, that nearly the whole contents related to the same subject. First, my lords, we have the means of applying the public money and the particular uses; then we have the allegation of the defendant's knowledge of the money being applied to a corrupt use, and lastly the fact stated of all proof and vestige being destroyed.

" I hope, my lords, I am stating the charges fairly; charges which have been truly stated to be of the greatest magnitude and importance, part of them to be sure of a more modern date, and which must therefore be admitted to be more easy of access, and more capable of having light thrown upon them. There are also transactions to which there is a living witness, and who was a very principal party to them, and who has been called before you.

" We now, my lords, are upon a part of the charges which most nearly affects the honour and character of the defendant, and upon which you would expect to have the most clear, satisfactory, and full investigation on the part of the prosecutors, before you could pronounce the judgment you are now solemnly called upon to give.

" But, my lords, I hope I shall not be deemed arrogant or presuming, when I say, that I shall be able to give you complete satisfaction, not only that the charges are not supported in evidence, not only that no balances were due, but that the evidence produced has totally failed, and that the charges, instead of being supported, are directly disproved by every witness that has been called.

" The principal testimony on this charge has been obtained from one of the chief actors in these transactions, I mean Mr. Trotter, concerning whom your Lordships have heard who he was, how he was introduced to Lord Melville, and what situation he occupied.

" Much observation has been made on the imprudent

conduct of Lord Melville, and much inference drawn from it, in having committed the care of his duties in the office without due examination; but these were only suggested for the very purpose of making further remarks, and again bringing the subject before your lordships.

"It has been charged against the noble defendant that he was engaged with Mr. Trotter from the year 1786 to 1800, a period of fourteen years in a systematic confederacy, and that in four distinct instances he grossly abused his trust, and purchased stock with the public money for his own benefit.

"I have now, my lords, gone through the different articles, and have summarily stated the principal charges contained in them. They assert that the defendant committed the crimes stated in them, corruptly and with full knowledge, and in breach of the terms of the warrant; and alledging, that this is a direct violation of the law, and that he corruptly, knowingly, and fraudulently, laid out and expended the public money in the public funds with a view to enrich himself.

"My Lords, you have this account given you of Mr. Trotter. In the year 1786, or the latter end of 1785, just after the death of Mr. Douglas, Mr. Trotter was introduced to Lord Melville, to whom he had before been personally known. He was a gentleman stated to be not only of creditable, but opulent connections, the son of a wealthy banker, and the brother of a partner in the firm of Messrs. Coutts, and Co. He was a man, stated even by the honorable Manager, who was not unacquainted with Mr. Trotter, and who had had frequent interviews with him: I say my Lords he was stated to be a man in all other parts of his character, in private and public life free from all imputation.

"Besides this, my Lords, he was in high estimation in the office, his probity had been repeatedly tried, his integrity was unstained, and who was conversant in arithmetical calculation, and the business of the establishment. He was not at all wanting of understanding, and had a ready and comprehensive mind, and was perfectly competent to his situation.

"He was a gentleman of unspotted private character, and was eligible at that time, from every circumstance which

which would entitle him to credit. He was especially acceptable to Lord Melville from his accurate knowledge of that to which his Lordship's attention had never been directed, and farther recommended by his being an officer of the department, over which the noble defendant presided, and more particularly by the most useful and important regulation made by Mr. Trotter, and the formation of the rules of the office into a kind of code of laws for its government.

"At this time nothing could have intervened, which could prevent the transfer from Lord Melville of all his confidence in the transactions of his office, and no candid mind can hesitate a moment to say, whatever may have passed since, yet taking the then view of the case, and the then character of this gentleman, that there was any thing which ought to have deterred Lord Melville from placing in Mr. Trotter entire and undivided confidence.

"Even the honorable managers themselves are compelled to say, that he was a man in whom, in whatever he asserted, your Lordships might place implicit confidence. Thus my Lords, is it that the evidence of the prosecution is opened.

"At the same time my Lords, when the declaration was made, he had been under the course of interrogation for many months, and he had incurred the displeasure of those by whom he was examined, and received punishment until he had expiated his offence by full and satisfactory intelligence. He was questioned as to all his books, all the papers belonging to him, to which access could be had, and his banker's account at every period was again brought under consideration, and every document was obtained which could throw light upon the question. When Mr. Trotter was asked if he recollected any particular transaction, his answer was uniformly, no; but a document being put into his hand to refresh his memory, he was then enabled to state that he believed it was so and so.

"Private examinations were made by the committee of the managers of this prosecution, and they were continued from day to day, from week to week, and from month to month, endeavouring to obtain information

concerning every paper of every nature, which there was the least probability could enlighten the subject; and after all these different and numerous examinations, what is the result with regard to Mr. Trotter's character? Why the honorable manager painly tells you that your Lordships may place credence in every thing he utters.

" I will now state to your Lordships, a note which I took myself, of what the honorable manager said upon this subject, without meaning to offer myself as a witness. He stated that in early life, Mr. Trotter had shewn the greatest integrity, and had been employed, not only by Lord Melville, but by his paymaster Mr. Douglas, a man of undoubted probity. The honorable manager continued: " He is a meritorious man, and one who ought to be trusted, and a person more beloved by his family, or respected by his relations I know not."

" It was fortunate my Lords for Mr. Trotter, that his evidence should be confirmed by books which were produced, and by which his honesty was established, and it was fortunate for Mr. Trotter, that he gave such testimony: but my Lords, the honorable manager continues: " There was no human being could give any account of these transactions but Mr. Trotter, and the defendant, and on that account a bill of indemnity was passed to enable him to give evidence."

" My Lords, you observe that Mr. Trotter's testimony was of such importance as to be the subject of one Act of Parliament, and to have another in contemplation, in order that he might be brought forward to give evidence of his joint and mutual guilt with the noble defendant.

" The last passage my Lords, to which I shall refer you, of which I have taken a note, is this. ' You may believe Mr. Trotter my Lords, in every part of his testimony.' With this observation he was ushered into the witness box to give evidence.

" Now my Lords, let us consider who this Mr. Trotter is and what is his situation.

" I ask you, my Lords, was there ever a witness produced before a Court of Justice, who had more cogent motives to give testimony to establish the guilt of the defendant, and to exonerate himself? Was there ever a witness

witness brought forward who could have a greater interest to criminate the noble defendant:

" To give evidence in favour of his patron, what would be the consequence; but to speak the truth what is his situation, and to what does he recommend himself? He recommends himself to his own conscience, to the powerful prosecutors. His best hopes would be realized, and he would receive not only protection, but indemnity; if he did not assert the truth, he was aware that the consequence would be that he must lose every thing; but if he did, he was sure of exonerating himself from civil prosecution, and might retain the produce of his whole life; and I hope my Lords, I do not exaggerate when I say, that he had no temptation to spare the defendant, but every inducement to lead him to give testimony against him.

" But by putting Lord Melville in that situation, what does he not bring likewise upon himself? What perfidy is laid to his charge, and what misery is brought upon his patron; but by thus authenticating the transactions, what infamy and what ingratitude does he not cast upon his own guilty head.

" I hope, my Lords, I state the case fairly as to the credit due to this witness, with respect to the testimony he gave upon his examination.

" But, my Lords, supposing, after all that has been said, and all that has appeared from his evidence, to do away doubt and suspicion, this person, who can speak to every circumstance, should come forward before this great tribunal, and should distinctly assert upon his oath that every act was his own, and all committed for his own exclusive emolument, and that Lord Melville knew nothing concerning the transactions, and of which he had no account or intelligence; if he should say, that this was done behind the back, and without the knowledge of the defendant, can any reasonable mind hesitate a moment to believe that it is a true statement of the case?

" I would confidently ask your Lordships, if that does not form a strong and invincible ground which must carry conviction along with it to the understanding of every man?

" There were but two persons in the whole world who

were the least acquainted with these transactions, Lord Melville and Mr. Trotter; and would not it have been both natural and just, that the person concerned should have come forward and have declared

> In me convertite ferrum
> O Rutuli mea fraus omnis: nihil iste, nec ausus
> Nec potuit.

"I am sure, my Lords, that you cannot fix upon the noble defendant the foul crimes which are charged against him; and you must be of opinion, that this is the least satisfactory evidence that was ever brought forward in support of any prosecution.

"I will now, my Lords, with your permission, examine some other particulars in detail, and I hope to be able to satisfy you, that the evidence before you, and the instances selected for the purpose of proving a corrupt confederacy, when carefully examined, will be found to operate directly the reverse.

"The history of these transactions commences in the year 1786, and you will enquire, what was the situation of the defendant at that time. In the year 1784, the noble defendant was appointed President of the Board of Controul, in which situation he continued until the year 1801, during a period of seventeen years. For the first nine years, he executed all the functions of the office without receiving the smallest remuneration. It has been proved to you, that at that time the establishment was first formed, when the affairs of the East India Company were before parliament, and were in a most ruinous state, and all the vigour and energy of Lord Melville were required for the restoration of prosperity.

"It is likewise in evidence before you, that the noble defendant was then a vigilant, active, and laborious subject of the public, performing his duties with unremitting diligence, and combating all the difficulties of his situation. His office was not to conduct the affairs of an old establishment, but he had to form new systems and new regulations for the preservation of commerce in the East.

"In the year 1791, a period most memorable in the annals of Europe, and particularly in the history of this country,

country, when a neighbouring state was agitated by internal commotion, and when the flames of revolutionary principles had already reached this country, Lord Melville was appointed by his Majesty, from the known eminent qualifications of his mind, Secretary of State for the Home Department.

"His character for activity and probity in the performance of all the concerns which were brought under his inspection, between the years 1791 and 1794, when he sustained this arduous station, is well established; and when no difficulties threatened us at home, but external hostility menaced the kingdom, Lord Melville was appointed Secretary of State for the War Department in the year 1794, and continued to support that character until 1801. These difficult situations, my Lords, the defendant filled, as has been admitted on all sides, much against his own inclination.

"During the time the noble defendant retained his employments at the head of the war department, he discharged a multiplicity of duties. At the same moment that he had the care of the Board of Controul as its President, in which he continued, as I have stated, from 1784 to 1801, during the same period, he was filling the situations of Secretary for the Home Department, and Secretary for the War Department.

"As I am upon this subject, I hope your Lordships will forgive my adverting to what the honourable manager said concerning Lord Melville, in opening the present proceeding; he held him up to the eyes of this august assembly, as a plunderer of the state, making use of the public money, and obtaining a total profit of 22,000*l.*

"Your Lordships see therefore, that the whole amount of the gain made by the use of the public money, is 22,000*l.*; and is it to be believed; that for the sake of this paltry sum, the noble defendant would have endangered that honour which he so long retained; at the same period engaged in the most important functions, and voluntarily relinquishing the salary due to him as Secretary of State. This surrender, my Lords, is mentioned in the second volume of the Reports of the Managers, in the 62nd page.

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"By the remuneration of salary in only one branch of his duty, I mean in the home department, he was enabled to save the government the expence of 5,933*l.* 10*s.* 3*d.* While these criminal transactions, stated to have been going on between Lord Melville and Mr. Trotter, were proceeding in another department of his duty, he relinquished remuneration to the amount of 26,333*l.* 6*s.* 8*d.* which, added to the former sum, will be found to give a saving to government in its expenditure to the amount of 32,266*l.* 16*s.* 11¼*d.*

"Now, my Lords, I am warranted in saying, that these sacrifices at least, are not the indications of a corrupt mind. In this resignation of his lawful right, and which he could have maintained without the least danger to his honour, he abandoned for the public good, a sum much exceeding all that is charged against him. If you should be driven to adopt either the presumption of the guilt, or the innocence of the noble defendant in forming your judgment, listening to the case as reasonable and charitable men, would you not rather put a favorable construction, than admit that which would lead you necessarily to imagine, that under such circumstances he had committed frauds upon the public?

"In addition to this, on the head of gross improbability, is it to be conceived, I had almost said, is it not improbable, (I had nearly adopted the language of the honourable and learned manager, who said, that it was impossible) for any person above the degree of an idiot, to embark in such concerns: but if Mr. Trotter were doing this, what was the risk Lord Melville incurred in authorizing it? From the very nature of it, was there not the greatest danger of a discovery, and of the fact coming to the knowledge of a great number of persons belonging to the office? The circumstance of the public money being made use of to private emolument, must have been known to the Governor and Company of the Bank. The larger the capital in their hands, the greater must the profit have been.

"Was not this then, my Lords, an undertaking of infinite peril, and the consequences of detection must have been the total ruin of the noble defendant. Mr. Trotter would have been protected, and all the principal

risks

risks would have been thrown upon Lord Melville. Now, my Lords, do I ask too much of you to presume, that if Lord Melville could by any means have brought himself into this situation with regard to his character, he would not have done so, without any adequate object? Few men, however depraved, will put their character at stake for nothing.

"What is the result proved by the evidence of Mr. Trotter? It was, that for fourteen years this system had been carried on. Surely, this must have been a great concern, and he who risks the most in any undertaking of this nature, will expect to receive the most profit; and, my lords, you would suppose, that he who was principally exposed to loss, would have the most considerable share in the advantage.

"What is the result of the account on this subject given by their own witnesses? After a period of fourteen years, Mr. Trotter says the profit was exclusively his own, and from that it would appear, that Lord Melville staked his name and character in this risk, the whole unparticipated profit of which was to be enjoyed by Mr. Trotter. Was there, my lords, ever such an excess of generosity as in this case, if you believe the evidence? Here is a person first seeking for money by a dereliction of all principle, and then transferring the profits gained by his iniquity to his agent. I believe, my lords, this will be found to be an experiment entirely new in the history of mankind.

"But, has money ever been the object of the noble defendant during the course of his life? When we consider the command of money which he had, when it was sworn by the witness, that a hundred and fifty millions went through his hands, and when we know, that at any one period, if money had been his object, he had, month after month, abundance of opportunities, without the knowledge of Mr. Trotter, the power of amassing wealth to almost any amount; and I am sure, that it must be admitted, that upon this subject he stands perfectly free from all suspicion; this, my lords, is supported by the evidence on the part of the prosecution.

"But let us see what possible body of evidence there is to support the charge. The first circumstance adduced,

duced, as proof of the corruption, is the proposition of Mr. Trotter to Lord Melville to draw the money from the Bank. It is said, that this was done from a corrupt motive, purposely that it might be made use of for private emolument; not removed from the Bank for convenience, but it is charged, that the real object was private emolument, and this is endeavoured to be supported by the first witness brought forward.

"I shall think it, my lords, quite sufficient to state, without going into a detail of the evidence, that all the hypotheses of the learned manager consist merely in argument and reasoning, which, unfortunately, are directly in the teeth of the evidence. I shall now again refer your lordships to the testimony of Mr. Trotter. He swears, in the most direct and positive terms, that neither he nor Lord Melville had private interest or emolument in view at the time that they drew the money from the Bank: I think then, my lords, there could be no such intention in the noble defendant.

"There is no occasion, my lords, to examine farther, the question of private emolument, when their own witness has negatived it. But, on the present occasion, instead of doing what we were enjoined to do by the honourable manager, are we now to examine the evidence, to discover if it be conclusive, or that there are circumstances which make it evident that this is a false account? "But," say they, "you must disbelieve Mr. Trotter on his oath, when he says that they had no view of private interest." They, however, my lords, must not be permitted so to deal with their own witness; the prosecutors build the whole case upon the evidence of Mr. Trotter; and it is not competent for them to take some parts of his evidence and say, "This you must believe; and to declare, at the same time, that which is given in favour of the defendant is not to receive any credence. The whole charge rests upon his testimony, and the inference to be drawn from it is directly the reverse to what they contend.

"I would submit to your lordships, that you are not to examine whether this was, or was not the wisest, the most proper, discreet, and prudent step taken by Lord Melville, to distribute the money among the persons in the

office.

office. If 50,000*l.* were placed in the hands of Lord Melville, and if he were to give it to a sub-accountant, who was disposed to be dishonest, it was in his power to bestow it where he might think fit. This was the case with Mr. Trotter, who is said to have received his authority from Lord Melville.

"But, is there any thing which could induce Lord Melville to suppose that the money was applied to corrupt purposes? And here, my lords, you have had a great deal of observation upon the transfer made from the Bank of England; you have been told, that the noble defendant was a public accountant, and ought not to have been negligent of his duty, but should have rendered an account to the public. Yet I will not dwell upon this subject, because it is not the charge against his lordship.

"You have, my lords, evidence before you, in order to shew, that this office Lord Melville discharged improperly. You have had called before you Mr. Bragge Bathurst, who was examined by the prosecutors to prove what were the duties of the office. He is a gentleman of the highest probity and ability, and, being questioned on the subject, he distinctly stated to you, that the business of the office was conducted by the Paymaster, and that the practice of his predecessors had been, to delegate all authority to the Paymaster, by power of attorney: all payments were made to the Paymaster; references were made to Mr. Bathurst only in particular cases, but the general business of the office was conducted without that gentleman's interference; he thought, by giving the power of attorney, the duties of his situation were completely performed. No inference then is to be drawn from this evidence against Lord Melville, if he conducted himself in the same manner.

"The tenth report of the Naval Commissioners, who were appointed by government, states it to be the ordinary practice for the Treasurer to nominate a Paymaster, to whom he delegates all authority by power of attorney: it farther observes, that the Paymaster may be dismissed from his office, but that it has not been usual to do so, even on the removal of the Treasurer.

"In addition to this, my lords, I shall refer you to the

preamble of the articles of impeachment. It is here stated, that the detail of the business was executed by the Paymaster, as given in testimony by Mr. Bathurst, which is the constant usage of the office. It runs thus; 'and whereas on the 10th day of January, 1786, whilst the said Henry Lord Viscount Melville held and enjoyed the said office of Treasurer of his Majesty's Navy, he did constitute and appoint Alexander Trotter his Paymaster; and the said Henry Lord Viscount Melville did, on the said tenth day of January 1786, duly authorize and empower the said Alexander Trotter to draw on the Governor and Company of the Bank of England, for and upon the account of him the said Henry Lord Viscount Melville, as Treasurer of his Majesty's Navy, all and every sum, or sums of money that then were, or should thereafter be wanted for the public services, under the care and payment of the said Henry Lord Viscount Melville, the said Alexander Trotter being particularly careful to specify in each and every draft, the service for which the money should be drawn.'

" I say, that this is stated to be by the prosecutors a proper act of the defendant, and by this act, permission was given to draw upon the Bank for unlimited sums. All the general power given to Mr. Trotter, is derived, from the uniform, constant, and continued delegation of authority, given by the Treasurer to his Paymaster. It may so happen, that the Paymaster has abused such delegation, but that is a legitimate act; we say, that it was the course of office to give the power to draw the public monies from the Bank.

" Then, my Lords, I ask, what inference is to be deduced from that circumstance, or rather, what inference of criminal intention; for it is stated in the preamble to which I have alluded, that all Mr. Trotter did, was by a due, legal authority and power, without controul, or limitation; and I shall intreat your Lordships' to give the noble defendant all the benefit of this consideration, when the point of law is submitted to your attention; for if this were a due and legal authority, it puts an end to the question of law, as it was proper and competent for the Treasurer of the Navy, to give to his Paymaster a general

neral power, of drawing on his account for all sums of money that might be wanted for public service.

" The conversation between Mr. Trotter and Lord Melville, could not give the former any authority; because, by the statute, the power is required to be in writing: the authority, therefore, which was written, the managers have declared to be legal, which is asserted in the introduction to all the charges. You will observe, my Lords, that the written authority stated in the preamble, was in writing for the benefit of the public service; the verbal authority proved by Mr. Trotter, I mean the power given by the noble defendant to remove the money of the office for temporary convenience, as it were in transitu, at Messrs. Coutts'.

" This was the mode proposed by Mr. Trotter, as he swears, for the purpose of facilitating the business of the office; but that they say is not the case, for instead of facilitating, it confuses the accounts. But, in direct opposition to this, it is expressly sworn by Mr. Trotter, the Paymaster, that he did at the time believe, that when the Navy Office was removed from Broad-street to Somerset-place, this arrangement would be more convenient for the discharge of small demands made by the sub-accountants.

" All the payments from London for the out-ports, are regulated in a very different way, by a particular clause in the act of parliament, and when the payment relates to an out-port, the Treasurer is exonerated from responsibility: but it is the contrary when the payment is made in London, and therefore, this is a matter of perfect discretion, and he may deal out what sums of money he pleases.

" The reason alledged why the money was placed at a private banker's was, in order that a supply might be at hand for the naval services; but looking at all these motives urged by Lord Melville and Mr. Trotter, would you not think that it was removed for the purpose of convenience, because it was sworn, that it was Mr. Trotter's real opinion, at the time the proposal was made, that the money would be placed in a more eligible situation?

" It is said that Lord Melville did give permission for this

this to be done for the profit and emolument of Mr. Trotter. On the examination, certainly, that was his Lordship's object; but it does seem to me, adverting to the whole context and the manner in which it is stated, that it is directly the reverse. On the examination before the Commissioners, the question being put to Lord Melville, whether Mr. Trotter had his permission to use the public money, he answered, 'If it is meant to ask me, whether I gave Mr. Trotter authority to use the money in any manner he pleased, I answer, that I certainly did not; but I never objected to it, and I believe he did apply it to his own use.'

"But, by the context, it appears that he must have thought the public money was applied to the fair, honest, and convenient purpose of carrying on the business of the office, and that for that reason it was placed at a private banker's.

"I shall now refer your lordships, to the evidence of Mr. Whitbread, in the course of which, a variety of questions were put to him, for the purpose of obtaining an explanation of the nature of the profit Lord Melville supposed Mr. Trotter to receive, from the payment of the money into a private banker's. The witness was asked, 'Did you mean to assert that the noble defendant intended to state, that Mr. Trotter gained any advantage from it?' To this a reply was made, that Lord Melville stated, that he had allowed money to be placed at a private banker's for official convenience, and that he did not prevent Mr. Trotter from deriving profit from it, that private advantage arising from the interest.

"Therefore, my Lords, taking this explanation, coupled with what Lord Melville stated before the Commissioners of Naval Enquiry, the conclusion is this, that the noble defendant thought the public money was only applied in the regular course of official duty, viz. for naval services. Besides which the noble defendant on his oath declares, that he was convinced it would facilitate the public convenience, and this statement Mr. Trotter confirms.

"But they assert, that the noble Lord was applying the money to dishonest purposes, but that he only said, Mr. Trotter might be deriving advantage from it. But,

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my Lords, I beg leave then to ask, was there any thing criminal, or any thing wrong in the act of placing the money at Messrs. Coutts'? I do not however mean in any way to object to what has been said by the learned manager with respect to the draft of the Treasurer being the authority for obtaining the public money.

"The form of the draft could not give legality to the act, for the truth is, the draft was drawn for another purpose, but I assert, that Lord Melville never authorized any money to be taken from the Bank of England, but for naval purposes, and the evidence of Mr. Trotter, and that of all the other witnesses acquainted with the subject, states the same fact. There is not the smallest tittle of evidence to support the contrary. Besides this, the noble defendant swears, most positively, that there never was a period when Mr. Trotter was authorized to draw money from the Bank, but for the public naval services of the kingdom; and here again, I beg your Lordships to refer to what was said by the honorable manager in proof of what I have asserted.

"It is therefore quite clear, that what I have stated, is the result to be drawn from the conversation, and of all that passed at that time, and that the authority received by Mr. Trotter was a power universally admitted.

"I hope therefore, I have relieved this part of the case from all stain of corruption, and that your Lordships will be convinced that Lord Melville had no intention that Mr. Trotter should speculate with the public money at the house of Messrs. Coutts, but his idea was, that whatever benefit was obtained from it, was merely from the interest of the money lying at that banking-house, and that it was to be drawn from thence as necessity might require.

"I shall now, my Lords, proceed to remark upon the different instances where the defendant is charged with expending the public money in various purchases of stock.

"The first purchases of India Stock took place in 1789 and 1793, upon which the principal proof of corruption has been rested. I will examine these transactions on the evidence now before you, and I trust it will appear to you not only that there is no instance of corruption

ruption, but that it will be shewn, that it was not the public money which was applied, or that this was a systematic plan of fraud.

"The account given by Mr. Trotter of this transaction is as follows. He says, 'I will state the transaction as far as my memory carries me. There was a conversation between Lord Melville and myself on the probable rise of India Stock, and I observed, that I thought upon that consideration, he ought to invest a sum of money in it; but he replied that he had no money. I mentioned to him, that there were considerable balances lying in my hands, not necessary for the public service, and which I supposed would not be wanting for some time, and I advised him to give me leave to lay out so much of that money as would buy 13,000*l.* but he refused in the most pointed manner, insomuch, that I was afraid I had incurred his lordship's displeasure. I then said that I had a friend who would lend me the money, and agreed to borrow it, when his lordship signified his wish that I should lay it out. I applied to Mr. Lind, but found that I was deceived. I never acquainted his lordship, but I assisted Lind with advances of public money, that he might lend it again. I charged his lordship with interest of the money so advanced, from the first advances to the conclusion of the settlement.'

"I beg, my Lords, to ask whether I may take this to be a real or fictitious transaction? Was all this colour, pretext and fiction, or does it represent the transaction as it actually was? If it be fiction, the witness who supported it is a perjured man. I think it will not be said, that I am not to take it as a real transaction. Taking it to be so then, I ask your Lordships, if it does not give a most decisive negative to the charge of corruption, privity, and connivance, in the use of the public money with Mr. Trotter, that ever was discovered in any court of justice in the world.

"In the first place, when does this transaction happen? In the year 1789, three years after the systematic scheme of corruption is said to have been going on, when Lord Melville had ordered Mr. Trotter to make unlimited use of the public money, for mutual benefit. There was no necessity that a third person should be introduced into the

the transaction with these two partners in iniquity, and how do you account for this refusal of Lord Melville, when if he had been connected with Mr. Trotter, he could have taken the money of the office to any amount?

"What is the first answer of this corrupt person who had under his command 100,000*l.* lying at the Bank under his own controul and management? Why did he not open his mouth and tell Mr. Trotter to take it? But on the contrary, what is the reply given; an answer in private to this agent and manager of this system of corruption for three years. Not 'go and take the money, as you have always done, and lay it out for me;' but what was it? Why, Mr. Trotter says, that he seemed to throw it aside, by saying he had no money to invest in this stock. But why did not his agent, this partner in iniquity say to him. 'Here, for three years you have been applying the public money, why do you not take it now? There is money in plenty, 100,000*l.* at the Bank.' But instead of that, what does he suggest? he says, 'I then mentioned to his lordship, that there were considerable balances at all times in my hands, which were not called for, and would not be called for, and I knew this from my situation in the office.'—But why need he mention this? It must have been unnecessary if he had been conniving at an illegal use of the public money three years before; but he continues, 'I advised his lordship to give me leave to lay out such a sum of money, as would buy up about 13,000*l.* worth of Stock."—Why did he not go without leave, and do it before he had authority? But what did Lord Melville answer to this?—Not, 'Take it, go and, do as you have done before for months after months,' but Mr. Trotter says, 'that he refused in the most pointed and decided manner, insomuch that I was afraid I had incurred his lordship's displeasure by the proposal.'

"But why did he reject it, he who had countenanced and encouraged these practices? Why did he in the first instance refuse the offer in the 'most pointed and decided manner?' No, my Lords, instead of accepting it, what does Mr. Trotter say upon the subject? He asserts, that his Lordship refused in the most pointed and decided manner, insomuch, that he was afraid he had incurred

his lordship's displeasure. What, his displeasure, how is that to be reconciled? How was his displeasure incurred? By what? In their supposition, there was nothing to excite it. But what is proposed by this? Mr. Trotter, the agent, who must have been perfectly acquainted with all the criminal proceedings, what did he suggest as a substitute?—To borrow the money from a friend.—What borrow money from a private person when the Treasurer of the Navy had so much under his orders? But, my Lords, let us see what the honorable managers say regarding this testimony. One of them comes boldly forward and tells you, that you are to believe every thing that Mr. Trotter swears; while the other declares that you are not to credit a single word deposed by that witness. How, therefore, my Lords, is it possible to reconcile these two different opinions, and you are called upon by them to form your judgment against all probability, alternately for and against the testimony which their own witness has given. My Lords, I will confidently ask you, whether any body above the degree of an idiot would have acted as Lord Melville did, upon that occasion?

"Besides all this contradictory evidence, you have it distinctly proved before you, that the noble defendant paid interest for the loan of the money out of his own pocket. This is stated by Mr. Trotter, who acknowledged Lord Melville's having paid to him for interest due to Mr. Lind, the lender of the money. I now, my Lords, from this evidence beg leave to ask, if you can say that Lord Melville was the corrupt man charged by these articles. But is not a directly contrary conclusion to be drawn from it?

"At a subsequent period, the money was actually repaid by him, and Mr. Trotter swears, that Lord Melville was unacquainted that he had advanced the money, till after the publication of the Tenth Report. Upon his evidence, it is also clear, that 20,000*l.* was paid by his lordship to Mr. Trotter, for account of Mr. Lind, and after all this positive proof, the Managers of the House of Commons call upon you to declare, that the whole transaction from the beginning to the end was a fiction, when the fact appears from their own witness. But on what ground are your Lordships called upon to believe that

that it was a fiction? On the impossibility of the money being advanced by Mr. Lind. Why, my Lords, an advertising money lender, would be ashamed to make so barefaced an excuse The best proof of the reality of the transaction, is the payment by Lord Melville of 20,000*l.* with interest, during a long succession of years, and also 3,000*l.* at a subsequent period.

" Persons conversant with pecuniary transactions, advanced considerable sums of money to Lord Melville, and they believed that they were perfectly safe, although they had neither bond, note, nor security for their money. There is proof, my Lords, how extremely negligent the noble defendant was in the conduct of his money concerns. But supposing that the turn of his mind had been to arithmetical computation, would he have permitted the stock purchased for him to have remained in the name of another, without some valid and solid security, and would he not have demanded a declaration of trust from Mr. Trotter, stating that the stock actually belonged to him? But on the contrary, has he not shewn his indifference upon that subject, by permitting the stock to remain in other names, without any acknowledgment, when he might have had it transferred to his own.

" This transaction, my Lords, is placed at the front of the case on the part of the prosecution, as the largest and of the most importance, and on which you are demanded to build your judgment, and to pronounce the noble defendant, both wicked and corrupt; and in support of this, you hear from their own witness, the clearest testimony to convince you of the contrary; because it is utterly impossible, that he should be from 1793, paying interest to the amount I have stated, year by year from his own private purse. Surely, my Lords, there must now be an end of the suspicion of corruption, when such vestiges are brought forward, and when you see, instead of a corrupt, an honorable mind developed, would you not draw a conclusion directly the reverse? I thank the honorable managers for bringing this under your observation, because it shews you, that at least in this instance, the noble defendant had not the smallest know-

ledge that the money borrowed for the purchase of East India Stock, was advanced from the public funds.

"We now, my Lords, proceed to a transaction concerning the purchase of a quantity of Loyalty Loan. I shall first beg you to advert to the date; it took place in 1797, eleven years posterior to the commencement of the alledged confederacy between Lord Melville and his agent. You will likewise attend to what has been said by Mr. Trotter on the subject. He has stated to you that the only proposition for applying the public money was made by him with regard to the purchase of India Stock, and that then the suggestion was rejected by the noble defendant in such a way that Mr. Trotter feared he had incurred his lordship's displeasure. Let us further enquire what was the state of public affairs at that period? Stocks had been for a considerable time, from various causes, in a falling state, and permit me to ask you, my Lords, whether this was a period when a person, desirous of enriching himself, would have entered into a speculation of this kind? Was that an opportunity which would have been selected as the most favourable? Seven years had elapsed, since the noble defendant made any purchases of that nature; and was it to be supposed, that at a moment so unfavourable, he would have bought stock for the purposes of private emolument? At that time, stocks fell from 90 to 72, and were at a discount of 18 per cent.; and I ask you again, whether any persons commencing speculations, would have chosen this as the most auspicious period?

"But can no one suggest any other object or motive to induce Lord Melville to make the purchase at this time? My Lords, an illustrious personage, who has been alluded to during this proceeding, then laid out a considerable sum of money in this stock; and a great many other persons of distinction then bought a large quantity of the stock for the purpose of raising the public credit; and upon this motive the noble defendant was induced to invest his money. But this instance is of a later date, and in which Mr. Trotter, the ordinary agent of Lord Melville, had no concern: does not this in some degree negative the application of the public money? But there is one proof which has been brought forward, which appears

pears to me decisive of this question, and of the suspicion which might belong to it, of its being a corrupt transaction. The last payment was made on the 27th of September, 1797; and how is it proved that the noble defendant intended to make a private emolument of it? With regard to this, a document has been produced, which seems to me conclusive; it is dated 28th of September, 1797, the very day after the stock was finally paid for, by which Lord Melville authorized his bankers, Messrs. Coutts, entirely to dispose of this stock, together with others, for the purpose of re-paying the principal by which the purchase was effected. Now, my Lords, I may ask you how this may be accounted for? This instrument is dated from Somerset-place, and states, that Lord Melville had executed a power of attorney in favour of Messrs. Coutts, to enable them to dispose of certain quantities of stock in favour of different individuals.

" As to the chest account, it has been erroneously supposed to have been a public account, but it was actually private, and conducted under different titles, and I am sure, with regard to that, you will not intend corruption, especially, when the weight of evidence bears entirely the contrary way. There is no proof whatever, that Lord Melville ever had his attention drawn to the chest account, but directly the contrary is established. Mr. Trotter has stated to you, that the attention of his Lordship was never drawn to it, and that the noble defendant was so engaged in public business, that he even signed his private accounts without the smallest examination.

" Is it, my Lords, to be expected, that a public man, unaccustomed to business of this nature; who at that time was actively engaged in parliament; and who placed such an entire confidence in Mr. Trotter, should minutely examine the accounts?

" I submit, my Lords, that the whole history of the transactions are incompatible with the idea of corruption; he never adverted to the different purchases of stock, not even to the large sum of India Stock; but he delivered over his authority to dispose of it; and he never did consider, believe, suppose, or suspect, that any part of the money for the purchase had been taken from the public

lic purse ; and I believe that the weight of evidence must induce every candid mind to believe, that whatever misconduct the noble defendant has been guilty of, arose rather from inadvertence, than what must be taken to be the assertion of the honourable managers, namely, that Lord Melville has knowingly acted contrary to what was his bounden duty.

" With regard to the small item of 2000*l.* the witness who proved it had no recollection of the transaction. That the noble defendant bought it, is true, and at the time stated ; but there is not a tittle of evidence adduced to prove that the sum with which it was bought was public money, that it was within his Lordship's knowledge, or that he gave orders to repay it, and therefore I shall not trouble your Lordships further upon that point. On other items of 2,000*l.* or 2,400*l.* I shall forbear to comment, as the witness who proved them had no recollection to what they related. I shall, however, refer your Lordships to that which the witness stated on the subject. He was asked, ' Have you any reason to doubt, that these sums were not repaid from the private money of Lord Melville ?' To this enquiry he replied, ' that he had no reason to doubt, as there had been frequent conferences on the subject.' "

" Another transaction I believe, was not much relied on by the honourable managers, I mean that respecting 4000*l.* advanced by Mr. Trotter to Lord Melville, on bond without interest. From the very terms on which the loan was granted, it appears, that it was a private affair between one individual and another; and it is proved, that at the time the 4000*l.* was given to the noble defendant, he was not aware that it was public money, therefore no corruption can be imputed to the defendant; and at the time of the advance, he agreed to repay Mr. Trotter very soon.

" The purchase of 7000*l.* in the 3 per cent. reduced annuities, you will find substantiated, if you revert to the testimony Mr. Trotter gave upon his examination. He said, that he purchased 7000*l.* in the 3 per cents. and upon the question being asked him, if it was made by any direction from Lord Melville, he replied, that he had received no orders at all. It was then demanded of him,

how

how that purchase came to be made without the direction of Lord Melville? To this, he answered, that he made it on the general management of the noble defendant's affairs; he believed a sum of money had been paid into his hands at that time, on account of his Lordship, and he thought proper to invest it in a way which might produce interest to Lord Melville.

" Such, my Lords, is the account of this supposed corrupt transaction, and how is it proved that Lord Melville knew that the stock was purchased by the public money? I have not, my Lords, travelled through every minute item charged by the prosecutors as a personal corruption in the money transactions, and I am sure, that if there had been another instance of that sort, you would have heard of it; for no industry could elude the vigilance and activity of the Managers of the House of Commons; they have searched all the bankers' books throughout Britain, with whom the noble defendant had any connection; they have ransacked every corner, to discover any letters, or accounts which might tend to elucidate the subject of enquiry; and after a laborious search for months and months, these are the only instances which could cast the least suspicion upon the character of the noble defendant, or which had the least appearance of corruption. Are these then, my Lords, grounds for you to declare that Lord Melville was cognizant of these transactions, and for you to pronounce, after all that has been proved before you, that Lord Melville was the man, who, from the beginning of the year 1786 to 1800, was conniving at, and permitting the public money, to the amount of a hundred and twenty millions, passing through his hands, to be perverted to his private use and emolument. These instances of fraud, which have been thus ostentatiously brought before you, may indeed well be said to be—

——— Rari nantes in gurgite vasto.

" On the contrary, my Lords, what must be the conclusion you will draw? I have no doubt but that you will agree with me in saying, he is of a liberal and generous mind, and that he had voluntarily resigned 30,000*l.* or 40,000*l.* for the advantage of the public.

" Ther'

" There is one other subject, my Lords, and I beg your pardon for having detained you so long, that of the release, and destruction of the papers. This, my Lords, is urged against us in two distinct ways. In the first place, the honourable managers assert, that it constitutes in itself a crime and misdemeanor. The next is, that it furnishes presumption in support of the proof of the corrupt conduct of the defendant, and casts upon it the strongest suspicions. They say, that he fraudulently destroyed all the papers, which would have been the means of discovering the nature of the transactions.

" As to the first charge of the destruction of the documents composing a distinct crime, I hope, my Lords, I shall be able to answer that in one word. I assert, that if the fact had been proved to its utmost extent, it could not have been made a crime. Was any individual ever charged with an offence, for destroying documents which were to support a charge against him. If a person accused with the foulest crimes, were to destroy any documentary evidence intended to establish his guilt, that circumstance might very properly be argued as a presumption of his guilt; but, the destruction taken abstractedly constitutes no crime, and therefore the oblitetion of testimony is no offence.

" But, say the prosecutors, it is a misdemeanor from the very nature of the documents, because they consisted of public accounts, and which a servant of the public cannot destroy. But, in answer to this, I say, that the whole supposition arises from a mistake: the papers were not public accounts, and the evidence has shewn that they were not. All the books charged to have been destroyed, were of a private nature, the documents of persons who certainly held official situations, but which did not on that account become public papers.

" There is not a circumstance to shew, that a single document was of the kind specified by the honorable managers; but, in order to substantiate that they were, testimony is adduced of such a nature, that it is impossible even to suppose that the papers were of the sort which has been mentioned; and therefore, in the absence of all proof, there must be an end of that part of the charge.

" The

" The only remaining point now, is regarding the doctrine of presumption.

" When, my Lords, at the close of the case, they found that the whole of what they called positive testimony, fell from under them, and that the evidence of Mr. Trotter operated the contrary way to that which they expected: then, my Lords, they tried their hand at presumption, to which they were under the necessity of having recourse. If, my Lords, there be positive proof in the case, presumption can be of no weight.

" But let us examine for a moment what inferences you are to draw from this presumption. They say, that you are to conclude from it, that the India Stock was purchased with the public money, within the knowledge of Lord Melville; that you are to guess at facts from the unknown contents of unknown papers, which have been lost or destroyed; and in the teeth of positive proof, that you are to infer guilt. I rather think, my Lords, this doctrine of presumption would not be permitted in a capital case, where it was proved that certian clothes were destroyed, as was supposed by the prisoner, and it would be difficult to make me believe, that the learned judge would direct the jury to come to a conclusion of crime, from the condition of such clothes, and their subsequent destruction; but I think he would tell them, that it was not evidence upon which they could give a verdict of guilty. But what would be said if a person should appear in the box to state, that the prisoner at the bar did not destroy the clothes, but that he himself did it, for purposes of his own, and that the prisoner had no concern whatever in it. What then, my Lords, would you say to a presumption like that? What would you think if it were proved, that the clothes were old, and of no value, and that therefore they were burnt? Such, my Lords, is the case now before you, the whole evidence in which consists of presumption.

" But let us advert to the letter from the noble defendant, of the 30th of June, to the Commissioners of Naval Enquiry, upon this subject." [The learned Counsel here read the letter.] It commenced, by acknowledging the receipt of a precept, requiring an account of balances; it next proceeded to state the lapse of time that had taken place

since the transactions. It then proceeded to the mutual release entered into by the noble defendant and Mr. Trotter. It afterwards went on to mention the destruction of the papers during his Lordship's absence in Scotland; and concluded, by expressing Lord Melville's willingness to supply the account required, if it were possible, and his inability to do so. Mr. Plomer then continued:

"That, my Lords, is a letter put in evidence as an auxiliary, to shew the wilful and fraudulent destruction of the documents; but I will venture to ask your Lordships, if a more natural account could be given. This, my Lords, is the letter of one who knew not that he was to be called upon at a future period, and which accounts for the destruction of the papers in the most natural and innocent manner. It takes place, after all balances had been settled with Mr. Trotter and the public; and it is not easy to suppose, that Lord Melville occupied himself in destroying documents, for which he conceived he could have no further use. In aid of this supposition, Mr. Trotter has sworn before you, that it was the general habit of Lord Melville to destroy papers of no value, for a long time before the precept issued by the Commissioners of Naval Enquiry, therefore, my Lords, I would ask you, if any unfavourable inference can be fairly drawn from that circumstance. The papers were destroyed after all Lord Melville's private accounts were settled in the year 1800; and can he be blamed for it, when they could be of no further use. The only account which remained, and which existed long before the release, had been settled between Lord Melville and Mr. Trotter. Under such circumstances, it only remains for me to entreat you to draw no hasty conclusions to the disadvantage of the noble defendant. Every endeavour has been made to press the charges most hardly against Lord Melville; and I ask your Lordships, if there ever was a case, which required for its support so many presumptions. You find that Mr. Trotter comes forward, and declares to you, that at the time of the destruction of the documents, he was in London; and that the release between Lord Melville and himself had long before been agreed on. Instead of the release being to benefit Lord Melville, it was for the purpose of arming himself against prosecution,

and for which purpose he consulted the most respectable authority in the law; and in consequence of advice, the release was prepared, in which the clause for the destruction of books and papers was inserted, and was sent into Scotland to the noble defendant for the purpose of being executed by him.

" With respect to the carelessness of Lord Melville, on the management of his private concerns, I shall not trouble your Lordships, but shall only refer you to different stages of the evidence, where his general indifference with regard to his private concerns is stated.

" My Lords, in this case, it certainly is not my intention to trouble you with much, if any evidence at all, because it must be apparent to every one of your Lordships, that the case made by the prosecutors does not call for it. With regard to the general subject of the charges, I shall not produce any witnesses. The case, on this part of it, does not admit of further testimony being adduced, because the transactions were only known to Lord Melville and Mr. Trotter, and the latter has been called, so that all the sources of evidence have been exhausted; but I conceive the defendant cannot in any way be required to produce witnesses to waste your Lordships' time, when the facts proved by the prosecutors, have amply made out his defence.

" In such a situation, it is quite enough for me to say to the honourable managers, your evidence does not support your charges, but, on the contrary, most manifestly disproves them; and the testimony of Mr. Trotter, destroys every idea of corruption; your articles are negatived by the principal witness called to convict the noble defendant. I hope, therefore, my Lords, it will not be said, that Lord Melville is destitute of proof, when he has the best, the most unsuspected evidence, that of the prosecution, which, by destroying their case, supports the defendant.

" It may be said, my Lords, that we might have had recourse to general evidence, but Lord Melville's character has long been before the public, long been before your Lordships, or I might here give testimony to his integrity, his vigour, and his energy in his public situations. I cannot help observing, that it has been a little hard

upon the noble defendant that his private as well as public affairs have been brought under your consideration. I will not, my Lords, pursue the subject farther, but leave it to your own minds. You have heard that all that is imputable to the noble defendant, might have been attributed to the most honorable man, and you have seen that Mr. Trotter continued for two years during the Treasurership of Mr. Bathurst, illegally drawing the public money from the Bank of England. All this, my Lords, might have taken place, without the persons who succeeded Lord Melville being chargeable even with neglect.

" Would it be said, my Lords, that an officer is to be answerable for more than his predecessors ever were, whose office was executed by deputy? But, will it be asserted, that the public concerns committed to the care of Lord Melville, were neglected: you have had it proved by Mr. Bragge Bathurst that it was the custom of the office, for the Treasurer not to interfere excepting in particular cases, but that the ordinary business of the office, such as the payment and the receipt of money, was left to the Paymaster; and I will ask your Lordships, if Lord Melville is culpable if he did the same?

" Upon this subject you have heard that the noble defendant, so far from being negligent of his duty, attended to all the principal business of the office, and the honorable manager himself was compelled to admit it, when he said, 'It is with satisfaction I give credit to good deeds, and it is with peculiar pleasure I state, that while Mr. Dundas was Treasurer of the Navy, many meritorious regulations took place for the relief of the widows and orphans of sailors, and by his interference in the regulations respecting the wills of mariners, he had prevented the commission of crime, and its fatal consequences under the sword of public justice, and for which he deserves the thanks of his Country.'

" How different is the statement we hear from the honorable and learned manager who summed up the evidence for the House of Commons. He told us that Lord Melville's private affairs flourished, while the public concerns withered under his management.

" I shall trouble your Lordships with but one word more upon this most important occasion. After the noble

defendant

defendant had been pre-judged and calumniated through every part of the metropolis, he preferred this mode of proceeding, because he thought, that if the question of corruption and connivance were to be discussed, your Lordships would have an opportunity of examining minutely into every circumstance, and he trusted, that from your hands, he might receive more ample justice; and because he was aware, that you would discharge your duty with satisfaction to your own minds, and honor to your country.

"Whatever is wholly unsupported in the charges against the noble defendant, you will not take into your consideration. From his own negligence and imprudence, he has already suffered a most severe punishment.

"Your Lordships are about to fulfil a most solemn and important duty: you are now to determine the fate of a man who is on the point of appearing before a tribunal more awful than that to which he is now amenable: although your Lordships constitute the highest tribunal in the world, you will acquit yourselves with honor in the face of the whole British nation, and in the presence of the representatives of surrounding Empires.

"The noble defendant is now called upon in the evening of life, to answer for his conduct, after a period of no less than forty years actively employed in the service of his country. His prosperity during the short remainder of his existence depends on the judgment which you shall pronounce, to which he will bow with implicit reliance on the wisdom, the integrity, and the justice of your Lordships.

THIRTEENTH DAY.

THURSDAY, MAY 15TH.

MR. PLOMER said, he should now call evidence on the part of the noble defendant:

The Clerk for the orders of Council called, sworn, and examined by Mr. Plomer.

Q. What is the book you have before you?
A. It contains the orders of Council.
Q. Report the order of Council in 1795?

Mr. Barlow then read from page 8, the recommendation of Council, proposing a Salary for the Secretaries of State at 6,000*l.* free of all deductions, and in lieu of all emoluments whatever. The salaries of the Under Secretaries of State, to be 1,500*l.* It stated that the Lords of the Council having considered the Report of the Commissioners, appointed under the Act of the 25th of the King, respecting the Secretaries of State, think it adviseable for his Majesty to confirm the ordinance proposed, &c. by the said Commissioners; (which appear to be approved of by the said Secretaries of State;) and likewise the arangements there recommended, &c.

Then page 168, follows the Order, in consequence of this recommendation; which states, that his Majesty taking into his most gracious consideration the above respecting the offices of the Principal Secretary of State, as recommended by the Commissioners appointed under the Act of the 25th of the King, and his Majesty's approving thereof, and of the further regulations proposed by the Principal Secretary of State, doth command and order that the same be adopted, and that the Principal Secretary of State do give directions for the same accordingly.

(An exception is introduced into these documents which is not material.)

Mr. Pollock sworn, and examined by Mr. Plomer.

Q. Are you chief clerk in the Home Department in the Secretary of State's Office?
A. I am.

Q. How

Q. How long have you been in that situation?

A. Forty-nine years.

Q. Do you pay the salary of the Secretary of State for the Home Department?

A. I do.

Q. Did you pay the salary to Lord Melville, when he held that situation?

A. I did not.

Q. It is scarcely necessary then, to ask you as to particular dates; did you on the 8th of June, 1791?

A. I did not.

Q. Did you on the 12th of January, 1792?

A. I did not.

Q. Did you on any occasion from that time to the 10th of July, 1794, pay the said salary to Lord Melville?

A. I did not.

Q. If the salary had been demanded of you by Lord Melville, would you have paid it?

A. Yes.

Q. During that time have you accounted for fees?

A. For some I have.

Q. Down to what period?

A. I think to July, 1794.

Q. Was Lord Melville entitled to a salary exclusive of fees?

A. Yes.

Q. I am speaking of the first period. What was the amount of the salary to which Lord Melville was entitled, from the 9th of June, 1791, down to the time of the order of Council making new arrangements with respect to such salary?

A. He would have been entitled to 1116l. 2s. 10¾d.

Q. And from that time, to the time of his going to the War Department?

Q. He was entitled to 14,958l. 18s. 10d.

Q. What was the amount of fees, prior to the order of Council, deducting the sum you have named?

A. 832l. 8s.

Q. Had the order of Council any effect as to these fees?

A. None.

Q. What was the amount of fees, subsequent to the order of Council?

A. It was 12,958l. 4s. 4d½.

Q. What is the total amount to which Lord Melville was entitled, and which he did not receive?

A. 5,932l. 8s. 2¼d.

Q. What was the amount before the order of Council?

A. 2,716l. 5s. 0¼.

Q. Have the whole of those sums been received for the Public, by his Lordship's relinquishment of them?

A. They have.

The Witness cross-examined, by Mr. Whitbread:

Q. Was it the duty of your situation to pay the fees and salary in the Secretary of State's department; and during the time Lord Melville re-received his fees, was it through the hands of the witness?

A. Yes, it was.

Q. To

Q. To whom did you pay what you did pay on account of Lord Melville?

A. To my Lord's banker, or to his brother, or agent.

Q. Will you swear to the calculation you have made, that the sum is accurate?

A. I think it is.

After a few questions from Lord Lauderdale,

Mr. J. Chapman, sworn, and examined by Mr. Plomer.

Q. Are you chief clerk in the Secretary of State's office for the War Department?

A. I am.

Q. Were you so in March 1795?

A. I was.

Q. Were you the person by whom the salary of the Secretary of State in that department would have been paid?

A. Yes,

Q. How much did you pay to Lord Melville?

A. I do not know the total amount, but I paid him the salary at the rate of 2,000l. a year, from January, 1795, to June, 1800, and at the rate of 4,000l. a year, from the latter date, to the time his Lordship resigned, in March, 1801.

Q. What was the amount of the difference betwen what Lord Melville was entitled to receive and what he did receive?

A. From July, 1794, to the time of his resignation, he relinquished more than 26,000l.

Q. Are you speaking of the War Department only?

A. Yes.

Q. Wholly unconnected with the relinquishment of the Home Department?

A. Yes.

Cross-examined by Mr. Whitbread.

Q. Were you the channel through which what he was to receive, was to be paid?

A. I was.

Q. Did you actually account with Lord Melville for what he did receive?

A. Yes.

Q. Was the salary due, tendered to Lord Melville?

A. When the first quarter's salary was due, I suppose I asked him if he would receive it.

Q. Do you know the reason why Lord Melville did not receive his salary subsequent to the order of Council?

A. Because Lord Melville received 4000l. a year, as Treasurer of the Navy, and he had other salaries from other quarters, amounting to 6000l. a year.

Q. Do you mean, that with his other offices he had 6000l. a year?

A. I thought so.

After

After one or two farther questions,

The Witness was re-examined by Mr. Plomer.

Q. If Lord Melville had been so disposed, might he not have received his salary as Treasurer of the Navy, and also as Secretary to the War Department?

A. I do not know.

Q. Had you authority, and would you have paid it if demanded?

A. I should have paid it.

Q Had you any reason for not paying it, but the relinquishment of Lord Melville?

A. None.

Mr. Plomer. My Lords, it has now been proved, that Lord Melville has resigned for the benefit of the public, 8648l. 13s. 2d. in the Home Department, and 26,081l. 7s. 5d. in the War Department, which together, constitute a sum relinquished by his Lordship, of 34,730l. 0s. 7d.

MR. ADAM

NOW rose, to conclude the case on the part of the noble defendant, which he did to the following effect:

"My lords, I am now to discharge an awful duty, rendered in one respect still more arduous by the emphatical and powerful reasoning submitted to your Lordships by my learned colleague. I hope I shall have resolution to perform what I have undertaken, to collect, arrange, and deliver my thoughts in a way to make myself intelligible; and my best apology for intruding myself upon your Lordships' notice is this, that I shall endeavour to say nothing that is not completely to the purpose.

"It is my intention to discuss the law in the first instance, unembarrassed by the facts in evidence, that the legal part of the enquiry may not be so blended with the narrative as to render them both obscure.

"Before I state the construction I apply to the 25th Geo. III. let me entreat your lordships to recollect one fact, and to retain it in your minds through all the ramifications of this important case, and it is this: that the noble and eminent person, who is under your adjudication, is at the moment that I am speaking to you, and has been ever since he left the office of Treasurer of the Navy, in this situation: he owes not a shilling to the public; he had paid up every farthing due from him, and not only this, but the navy has suffered no impediment, and the country has sustained no loss; no payment was ever procrastinated during the whole time his lordship was engaged in this public duty. This is a very conspicuous feature in this case, and it is fit that it should not escape the attention of your lordships or of the public.

"The noble defendant is accused of having been the breaker of that law which he himself framed. Before such a charge is considered just, it is right that the law should be narrowly examined, and correctly understood.

"If this act ought to be construed by what is within the

the statute, you will find that the law is what we state it to be, and that there is nothing obligatory on the Treasurer of the Navy to prevent his drawing out the money from the Bank of England, under the proper assignments from the proper Board.

"The act consists of two parts, which are perfectly distinct in their nature: the first is to secure the payments from the Exchequer; the second, is to permit the money for the public services to be drawn from the Bank. Here, then, are two considerations; the one relates to the contrivance for the carriage, by which the money, in its receipt inward, shall find its place in the account of the Treasurer: the other is, that it shall be at the call of the Treasurer, or his Paymaster, for the public purposes.

"Let us look at the first clause. You will find there, that regulations are most anxiously made for transferring the money in the first instance to the Bank; and I shall hereafter explain the great utility of this arrangement. The meaning is clear, the sense is complete and perfect, but the section admits of no such construction as that which the honourable managers impose.

"The Exchequer is to be memorialized, the money is then to be transferred to the proper repository, which is the Bank of England, and it is not to be issued from thence until it is required for the public service.

"The object of the legislature manifestly was, to prevent the extraction of the public money until it was actually wanted for the service, and by this expedient to prevent as much as possible, any outstanding balances in the hands of the officers of the establishment. The Treasurer was to require the money to be paid from the Exchequer to the Bank, but a preliminary circumstance was, that the Exchequer was to be called upon by the Board, and to pay the sums of money wanted to the Treasurer. It is, perhaps, right, that I should read a part of this clause. "From and after the first day of July, 1785, the Treasurer of his Majesty's Navy for the time being, in all memorials, to be by him presented to the Treasury for money for naval services, shall pray that such sum as he requires may be issued to the Governor and Company of the Bank of England on his account,

and shall transmit with each memorial, a copy of the letter, or letters from the Commissioners of the Navy, Victualling, and Sick and Hurt Boards, directing him to apply for such sum or sums."

"Afterwards follows the passage respecting the mode in which the accounts are to be kept. "And all such monies to be issued to the Governor and Company of the Bank of England shall be placed on an account, or accounts to be raised in the books of the Governor and Company of the Bank of England, and to be entitled, "The Account of the Treasurer of his Majesty's Navy," inserting the name of such Treasurer for the time being for the pay branch, cashier's branch, and the victualling branch."

"The money has now got to the Bank, and it is a most important part of the history of the office, that before this statute passed (with certain necessary exceptions), the money was paid into the Bank, and an account was there opened.

"Thus, the money was in the Bank at the command of the Treasurer, and the design of the clause was, that the account with this repository should be converted from a personal, into an official account. Before, the Treasurer was himself the Banker, and was entitled to use the money at his discretion. This was the opinion of a very distinguished person, whose eloquence has been displayed before many of your lordships in this hall. Mr. Burke said, that it was by no means the intention that the money was to be conveyed to the Bank, there to remain useless and unproductive. It was not designed, that the Bank, or any other public body, should reap those fruits, to which the public only were entitled; and this was an opinion pronounced on a very serious occasion, in 1783, one year after he had moved for a bill for the better payment of the army, which, however, being found inefficient, he was obliged to bring in another in 1783, to amend it.

"In explaining the terms of the bill, so analogous to the present, he said, that it was not the view that the money should remain idle at the Bank, and that there was no principle in his mind which tended to substantiate any illegality, if the money were to fructify for the benefit

benefit of the party. Such was the meaning understood, not only by the luminous mind of Mr. Burke, but by the whole legislature.

" Let not your lordships suppose, that while I am justifying this application of the money to private emolument, I am admitting, that any portion of the money was fructified for the use of the defendant, and to this part of the case I shall revert hereafter.

" Under the supposition stated then, the money is at the Bank, and the Treasurer of the Navy, no longer a banker, keeps an official account with that institution.

" Then, my lords, we come to the third section, and those who are accustomed to the courts below, will not be at all surprised, if I am anxious to invite your particular attention to the law as here laid down. ' From and after the 1st day of July, 1785, no money for the service of the navy shall be issued from his Majesty's Exchequer to the Treasurer of the Navy, or shall be placed, or directed to be placed, in his hands or possession; but the same shall be issued, and directed to be paid to the Governor and Company of the Bank of England, and to be placed to the accounts above-mentioned, according to the services for which it is craved and issued.'

" Now, my lords, you will observe, that here are negative words that apply to the Exchequer, and that they tie down the issues to the Bank. The act has not yet begun to contemplate what is to become of the money when disposed of from the Bank; it merely considers the duct, or channel, if I may so speak, which is to convey the money from the Exchequer to the Bank, so as to transfer it securely from place to place.

" Hitherto, we have found no difficulty. *Noscitur a sociis* was a sentiment familiar in the Roman institutions, and was employed by a great law lord in the construction of an act. ' You must (said he) assist yourselves in the general implication of a clause by its companions;' and hitherto, my lords, we have discovered nothing either contradictory or incongruous, but it is the reverse, under the construction given by the honourable managers.

" We come now to the second division of the statute, or to that part which relates to the situation of the money

in

in the Bank, which was at first directed to be placed there in July, 1785, and subsequently, in 1786, there was a second account, called the New Act of Parliament Account.

" I am going to state things, which are in themselves so plain, that I am almost ashamed to invite your lordships' attention to them; but the fact is, that matters the most obvious and familiar, and truths the most palpable, govern almost all the circumstances of our lives.

" Then the money is to be sent, under proper guards, not, indeed, to lie in the Bank for ever, but, at the proper time, to be brought from thence.

" Every thing is thus tied up, through the successive progress of the business, until it is to come into the hands of the Treasurer; but when drawn out by him from the Bank, then the act abandons all these restrictions. The Treasurer for the time being is the person duly authorized, and his authority he may delegate. Here there is a simple, distinct power in the act, without limitation. Thus far the legislature intended to entrust this public officer; and in the vast intercourse of mankind, without placing some confidence in our fellow-men, human affairs cannot be conducted.

" What is the course of office? The Treasurer of the Navy appoints his Paymaster, and, in the early part of his official situation, Lord Melville nominated Mr. Douglas in that capacity. Then the clause says, that from and after the 1st day of July, 1785, the Treasurer, or his attorney, shall draw upon the Bank of England; and in these words, and under these circumstances, as contained in the fourth section, ' The Treasurer of his Majesty's Navy for the time being, by himself, or the person or persons in his office duly authorized by the said Treasurer, from and after the 1st day of July, 1785, shall draw upon the Governor and Company of the Bank of England for all navy services whatever, and shall specify in each and every draft the head of service for which the same is drawn; and no draft of the said Treasurer, or the person or persons authorised as aforesaid, shall be deemed a sufficient voucher to the said Governor and Company of the Bank of England, unless the same specifies the head of service for which it is drawn, and has been

been actually paid by the said Governor and Company of the Bank of England.'

"The Treasurer of the Navy is to draw, his appointee is also to draw, and a head of service is to be specified; and here is an evident allusion to the mode of conducting business at the office, for how is he to acquire this title, or head of service, but from the ancient usage of the office.

"When he draws the money out of the Bank, your lordships will observe, it is not said that it is to be taken to any particular place, it is not stated, that it is to go to the chest, to the sub-accountants, or otherwise. No. This officer is to draw it out, according to the sound discretion he is supposed to possess, and he is to administer the fund so drawn out to the sub-accountants, or to any body else, in that manner which his judgment shall dictate.

There is not then, in this part of the act, any such safeguard as was before provided prior to the money devolving into the hands of the Treasurer; and then comes in the fifth section, the negative clause. 'Provided always, that the monies to be issued in to the Governor and Company of the Bank of England, on account of the Treasurer of his Majesty's Navy, shall not be paid out of the Bank unless for navy services, and in pursuance of drafts to be drawn on the Governor and Company of the Bank of England, and signed by the Treasurer of his Majesty's Navy for the time being, or the person or persons authorized as aforesaid; in which drafts shall be specified the heads of service to which the sums therein mentioned are to be applied.'

The connection between the act, and the course of office, to which I have alluded, is here manifest. "In which drafts shall be specified the heads of service." How are these heads of service to be known? Is there any thing in the act which points to the heads of service, distinguishing what they are? No.—Does it say that the money is to be carried to any particular place? No.—The act says, it is to be drawn out of the Bank for purposes therein noticed, and that it is only to be paid to such, or such heads of service. There is nothing about sub-accountants, nothing about the iron chest,

and there is no stipulation that the money may not be transferred to any other account in the Bank. Thus, the statute is obviously intended to continue the affairs of the office precisely according to the forms and regulations before established in it.

" My lords, you have heard, that conformably with this course, thus, as it were, recognized in the act, there are many payments under twenty shillings, and many more under five pounds. Besides these, there are large payments made by bills, which bills are assigned, and discharged to the payees in due time.

" I ask your lordships, how all this could be effected, all this business necessarily resulting from the nature of the institution, by making the Bank a permanent depository, until the time of the ultimate application of the money. When it comes to the Bank, where is it to go? Undoubtedly, to the coffer of the Paymaster or Sub-accountants, or to Messrs. Coutts, or any other safe and convenient situation; and if security and commodiousness be regarded, it is immaterial where it goes. Wherever it is destined to rest, it preserves its character of public money, and is to be directed to the public service.

Let us attend, my lords, a moment to the nature of the establishment. There is a treasurer, who has the office bestowed upon him, not to discharge any active duties, but who is generally responsible for the conduct of the business. He holds a situation in which he is enabled to discharge other functions from the leisure afforded him. Thus, there is a Paymaster, such as Mr. Latham, and others, respectable from their situation in life, and in whom great confidence is reposed. Besides this principal officer, there are subordinate clerks, many of whom are persons of fortune and consequence. But will any one say, that in these persons, the inferiors of the office, there ought to be a more extensive trust reposed, than in the Treasurer, or Paymaster?

" Your Lordships observe, that the course of business must be interrupted, unless some money is in the hands of the officers to be applied to answer the numerous small claims; now, is it to be supposed, that it was intended by the act, to deposit the money in the hands of the

the sub-accountants, to the exclusion of the Paymaster, and the Treasurer? Would it not be said, if any loss arose, (and in fact a loss did arise in one case) that the Treasurer himself was responsible; and yet how could this responsibility attach, if the money were to descend to the sub-accountants, without passing through the hands of the Treasurer and Paymaster, or of the one, and not the other? Would it be fit for the Treasurer to say, I will pay the money to you subordinate clerks, but not to Mr. Trotter; related to some noble families here, and in another part of the kingdom; connected by friendship with many gentlemen of fortune, and chosen by myself to receive my confidence. My Lords, acts are to be considered as flowing from the feelings at the time when they were performed, and not in this case, from the unfortunate situation in which Mr. Trotter now appears.

" My Lords, I humbly conceive this is the true meaning of the law, and it is not proper to distort the true meaning by any forced construction. The error, perhaps, has arisen from a misapplication of the 2d section, which relates to quite a different matter. Payments are made at the out-ports, and the party is liable to a different degree of responsibility to that to which the assistants in London are exposed. The former have not the money until the moment of payment; by the latter the money may be received before, and the public convenience requires it; and when the Treasurer goes out of office, he takes credit for what the accountants' pay in London, and in the out-ports for what is the balance. It was necessary to have a particular clause for these out-ports, as they could not be accommodated to the same rule by which the payments in London are made. My Lords, when a clause is formed for this particular purpose, is it competent to say, that this regulation, intended for what I have explained, is to establish a prohibition with respect to foreign matters, and that without directing the mode in which it is to be carried into effect. This would be a strained construction, and what your Lordships could not impose.

" There is one point more I shall mention on this part of the case. They will ask what is the object of the statute if it be not to keep the money in the Bank? I will

make some observations on a statute for the regulation of the Treasurer of the Ordnance, which will assist in shewing, that this statute for the direction of the Treasurer of the Navy, was for a very different purpose."

(The learned counsel here read the first and second clauses of that act, and made some further commentary upon it, in aid of what had been before stated by Mr. Plomer.)

" But it will be said, under my construction from the statute results no benefit; in answer to which, I say, that the law, as represented by them, would put an embargo on the payment of the money. The Treasurer and the Paymaster have a right to the custody of the money, or not; and I contend that either the one or the other is the proper custody for it. The multitude of small payments require, that the money should be out of the Bank, in order to their discharge; and if out of the Bank, where is it to be, unless with the Treasurer or his Paymaster? Is it to be with the inferiors of office, who, from their station in life, are not fit for such a confidential situation? There is no particular safety in the Bank, beyond what may be obtained in numerous great private banking establishments in this metropolis.

" But I was about to state the uses of this act, and they are, in my opinion, of a most important nature. I consider it as one of the most valuable acts of parliament which has originated with this noble person.

" You have heard, that Lord Melville has taken infinite pains for the commodious regulation of this office. Without this, the act, in no important particular, could have been complied with; for if the payments had been so fettered as to make such individual apply at the Bank, all these endeavours must have been ineffectual. The payments to the widows after the death of the husband; to the child after the loss of the parent; the payments to creditors of various descriptions for small amounts, must have been obstructed, if they were to carry their piece of paper to the Bank, to present it at all the distinct offices before they arrived finally at the place of payment.

" This act secured the money in such a way, as to bring it in safety to a place where it could be applied to such purposes; but the act had an ulterior object which

has

has been carried into effect, and that was, to prevent premature calls for money. By the forms prescribed, the account of the Treasurer of the Navy, became official, and not personal. He was confined to one account at the Bank, and could not extend his account so as to blend the affair to five or six distinct divisions.

" Another design was, to prevent the Ex-Treasurer's from being an existing office, and for this purpose, he was to hand over all the money to his successor, and thus all the concerns and accounts of the office were referred to one set of books, to prevent that irregularity and confusion, which on the contrary would arise.

" It was farther to secure a yearly auditing of the accounts, by calling upon the Treasurer to make up his statements, and to prevent that negligence in this respect which has been found to be so serious a grievance.

" These, my Lords, were the grand objects of this statute; and they are perfectly consistent with the enlightened views of the noble Lord, and with the intentions of the Commissioners of Public Accounts, which are the foundation of this arrangement.

" My Lords, I beg your pardon for insisting so much at length on this part of the subject, but it is in consequence of strong impressions on my own mind, impressions considerably deepened by the statement of my learned friend, and it is of most essential consequence to the cause, that this matter should be correctly understood. I am so decidedly, so perfectly convinced that the public have been unwarily mistaken, and that the only material question will be in the strict letter of the law. When your Lordships have gone along with me in this exposition, I trust, that you will not only acquit the noble defendant, but that you will consider him deserving of the thanks of his country.

" I wish to pursue the subject in the order in which it would be most natural to follow it; but I must here make some remarks, suggested by the summing up of the honourable and learned manager. I know the powers of his extraordinary mind, and I know also that he has applied all the ingenuity he possesses, in order to give your Lordships a wrong impression, but permit me to say, an impression opposed to every principle in the administra-

tion of justice which would prevail in this high tribunal, as well as in every other court in this enlightened country. You have heard the observations of my learned friend on the depositions of Mr. Trotter, and on the testimony of other witnesses; and it will appear to you extraordinary, that this honourable and learned manager, should represent that his case was, according to his own conception, proved. It might be supposed after this, that he would feel himself strong in his cause, and trust to that evidence; but exercising, my Lords, a sound discretion, he takes a very different course, and feeling the inefficacy of the testimony, he abandons it, and states presumptions directly contrary to it; or in other words, in this highest court of the kingdom, instead of trusting to the facts proved, he endeavours to avoid the facts, and to state presumptions perfectly distinct and irrelevant to those facts. This, my Lords, is not consistent with the course of proceeding in general practice; you are to determine on the evidence; but instead of relying on the facts disclosed, they give you conjectures.

"I speak from high authority, when I quote from Lord Cowper, who tells us, that the wisdom and goodness of our laws, appears in nothing more than in the humanity with which they are administered; of those laws, (says he) which are the glory of the country, and the envy of its neighbours. I hope, my Lords, that this sentiment will be treasured up in your minds, and that you will not admit the eloquence and dexterity of the honorable and learned manager to break in upon the clear meaning and boundaries of the evidence. Another subject I have likewise implored your Lordships to remember, as a most important consideration in this case, that the noble defendant has not a shilling of the public money in his possession; that he paid over the whole, and that the public have not suffered a six-pence, either by pecuniary loss, or by any interruption for a moment to the progress of the official business.

"The object of these charges is to shew, that Lord Melville had availed himself of money in his own hands, or those of his deputy, for the purposes of private emolument. The noble defendant is not here to be tried for petty delinquency, for an accidental occasional mistake which

which industry and ingenuity may discover, but he is here upon his trial, under a prosecution by the Commons of Great Britain, in the situation of a state criminal, for having systematically and corruptly used the public money for private lucre. Whether it was to gratify avarice, for satiating the demands of extravagance, for maintaining the state and dignity of his high office, is not now a matter for your consideration. The question is, the fact of the use, and of the motive for that use; for nothing is criminal but what proceeds from the heart.

Actio non est reus, nisi mens sit rea.

"If I shew that the noble Lord has rejected at a stroke 32,000*l.* which has gone to the coffers of the state; if I shew, that from an early period of life, when toiling in a laborious profession, he rose to the higher political dignity to which he ascended; if I shew, and my memory will enable me to do so, that the habits of his life were open, liberal and generous; if all this be true, it will require a great deal of proof to convince your Lordships that he has searched in holes and corners; that he ransacked the dead bank note office; that he dealt in small purchases of stock; and that having overdrawn his banking account a trifling sum, he took up the public money to turn the balance, where no interest was charged. It would be a stretch indeed to arrive at the conclusions they draw; it would be a stretch indeed to find his exalted mind guilty of corruption, to detect Lord Melville filching a miserable pittance from the public monies. What is the amount upon their own calculation? A mere trifle, and I can pursue it item by item, and reduce it to nothing; and placing against it the large surrender he has made to the public, in justice, he is yet a considerable creditor. I shall not, however, for the purposes of this defence, make any nice calculation of figures, I shall rather proceed lower to the subtraction, without which the figures are inexplicable. Some particulars, however, should not pass unnoticed."

(The learned counsel here proceeded to examine various items, many, if not all of which, having been before observed upon by Mr. Plomer, we shall pass them over in this place.)

"I now come to that part of the case, which relates

to

to Mr. Douglas, the Paymaster, and which refers to the first Treasurership of Lord Melville. This, my Lords, applies to the first item of 10,000*l.*; to the question with regard to the Bank notes; and to the money through the medium of Messrs. Muir and Atkinson. I will take these in the order in which I have stated them, excepting, that with respect to the first, I shall include in my observations 10,000*l.* said to have been taken up about the year 1792; and I do this, because the arguments which relate to the one, are also referable to the other.

" With regard to the first 10,000*l.*, the charge is, that being a public accountant, he would not disclose how he had disposed of this money; the next is, (the implication,) that he made use of it for his own emolument. With regard to this sum, he did not withhold the return of it to the public. At the time he made the declaration which is alledged as a distinct crime, he had long, and long before, returned the money to the coffers of the state. This seems to me to be very material. How the money was employed in the intermediate time, it does not appear to me to be incumbent on the counsel of Lord Melville to explain, and I confess, feeling convinced of this, I am not able to understand this part of the charge; he has returned the money, and where is the criminality of not disclosing the chest, or the individual with whom it might be deposited. The truth is, that the accusation being wholly unintelligible to me, I can give no answer to it. You have heard of the chest account, and of money given to Lord Melville under a requisition, but this first 10,000*l.* forms no part of these: this was avowed in the House of Commons, and avowed afterwards by Mr. Trotter.

" The second 10,000*l.* is in a different situation. In the year 1796, there was a sum of 40,000*l.* drawn from the office, and paid to Mr. Pitt. That amount, includes this 10,000*l.* and on the subject of this, you are desired to draw an inference directly opposite to that which would be deduced from the long history of the Life of Lord Melville. My Lords, in order to assist this charge, the honourable managers have recourse to the declaration before the House of Commons, and it has been stated, that the noble defendant before that dignified assembly, boldly declared, that he had taken this money; but that when

before

before the Commissioners, instead of making this manly acknowledgment, he has sheltered his silence under an excuse not to criminate himself. I intreat your Lordships to attend to the facts, and not to permit yourselves to be misled by the representations of the honourable and learned manager.

"At the time Lord Melville was before the Commissioners of Accounts, the application of the sum of 40,000l. and of the first and second 10,000l. was not disclosed. The noble Lord was of opinion, that this should be kept a profound secret, and that it would be injurious to unfold the mystery with respect to any of these. Another circumstance must be attended to. The noble Lord had not learnt, until long after the accounts of which you have heard so much from Messrs. Coutts, were kept in a mixed state, blending the private with the public affairs. On learning from Mr. Trotter that this confusion had been continued for many years, that his own private account was blended with the public money, Lord Melville thought he was in a very delicate and difficult situation, and that it might be no easy task to explain matters to the satisfaction of the Commissioners. When Lord Melville was asked, 'Whether he gave permission to the Paymaster to withdraw the money from the bank, and lodge it in the hands of a private banker, with a view to his deriving any advantage or emolument;' he gave a distinct and positive answer: but when it was enquired if he himself participated in the profits; he took shelter under a protecting clause of an important Act of Parliament, and why should he not? I will confidently say, that there is no person who has any regard for his own character, who after such an unexpected fact was communicated to him, would have dealt otherwise with the Commissioners than the noble Lord did. No other reply could have been given, consistently with prudence. Then the application of the public monies by Mr. Trotter to his own profit was another motive for closing his lips: and I say before your Lordships, that he exercised a sound, an honorable, a dignified discretion; and that he would neither have been found honorable nor dignified, if he had not done so. Your Lordship knows, that the wisdom of the legislature introduced

duced this clause, for the very purpose of affording this species of protection. Under this authority we obtained it, and I ask again, why should he not? His regard for public duty led him to conceal it, and that concealment has occasioned his misfortunes, which may therefore be attributed to his feeling of public duty. If at that time Mr. Trotter had been relieved from civil consequences, perhaps his Lordship would not have considered such a concealment necessary. The motives of the noble Lord are clear, his disregard of money is notorious, and with such an upright and elevated mind as he possesses, it is impossible that any mercenary considerations should have dictated his silence.

"The channel through which the 40,000*l.* passed, is now known. Supposing the disclosure of this had been called for before the death of that illustrious statesman whom we all revere, what would have been the answer of that great man? Would he have sacrificed the public interests to his own character, and would all this conjecture, which the House and learned Manager has applied, have been directed to impeach the integrity of the late minister? I can easily suppose the sort of reply this ardent friend of Lord Melville would have made to such an enquiry. 'You have trusted in me for twenty long years, you have believed that I have administered the affairs of the country with integrity; money for secret service has been confided to me to an immense amount, and this very sum which I have taken, which has done to the country an extraordinary benefit, has been returned to its coffers. The fulness of time may come when I may reveal its application, until that period does arrive, I ought to be above suspicion.' Thus my Lords, I have placed Mr. Pitt in the precise situation of the noble defendant, and I ask if that eminent person would on such an explanation have been put upon his trial on a charge of corruption?

"In the year 1796, the explanation of the truth would have not only involved the destruction of individuals, but might have been the ruin of the country exposed as it was, to a destructive war, and when the jaws of bankruptcy were opening upon us. My Lords, the time arrived when circumstances were altered, and Mr. Pitt thought

thought it right to reveal the fact. It was disclosed, and its application has been admitted; but the case might have been extremely different; and then enquiries might have been pressed with the same activity as in the present occasion, and yet the safety of the country would have required, that the silence of death ought to be preserved. The grave itself would not have been more rigid in this observance than the late Chancellor of the Exchequer; and who would not have presumed his innocence? *De te fabula narratur.* Who was Mr. Pitt? The intimate friend of Lord Melville, adopting the same political maxims; a friend in public, and in private, pursuing the same object; possessing the same confidence; sitting together in the assembly of the representatives of the people; and participating together in the esteem, respect, and support of that assembly? What is the difference you are required to make with respect to these two characters so long united in the same cause? You are not only to withhold the same confidence from Lord Melville, but you are expected to infer guilt. Lord Melville then, with Mr. Pitt, had obtained this money for secret services, and having so obtained it, restored it; the account was within the assigned balances; no injury whatever was suffered by the public, and when the fulness of time arrived, the whole was explained. Their individual acts were the same, and whatever opinion your Lordships, or I may entertain on the wisdom of these acts, the policy forms no part of the consideration. These two friends enjoyed the public confidence for a term of eighteen years, and the inference of corruption from this secrecy of Lord Melville, is most unnatural when the whole conduct of his life, when his character so long established, is directly opposed to it. It is in short, against nature, and supported by nothing in the history of the individual.

"So my Lords, it stands on the very question; but we are not left here. Your Lordships compose the highest criminal court of the kingdom, and on the trial of one from amongst yourselves, you are called upon to do justice. It is impossible to restore him to his former feelings and situation, because it is impossible

to prevent the powerful effect of these proceedings in his mind. But, my Lords, although you cannot apply a cure to his wounded sensibility, you can restore to him his character and his honor, and the consciousness of his own integrity will render the short remainder of life tolerable. They infer guilt, but are they not to prove it, are they not bound to give an account of this money, while it was absent from the public coffers to justify this charge of corruption? Do they suppose, that your Lordships will presume guilt, where there is no evidence?

"But it is said there are two Bank notes, and that these notes passed through the hands of Lord Melville's banker, and you are to conclude from this, that his lordship used the money to his own profit. Let us, my Lords, consider, what is to be drawn from this part of the case? My learned friend has told you, that we are as solicitous as the honorable managers, to sift every thing to the bran. True it is, that there were two notes passed twenty four years ago, (1782), the one composing a part of a sum of 5000*l.* the other, a part of a sum of 3000*l.* The one of these was paid into the bank of Messrs. Drummond, the other into the hands of Messrs. Moffats, and it is correctly stated, that they were both paid to those banking establishments into the account of the noble defendant. I do not dispute, that the sum of 600*l.* was produced from one of these, and the 1000*l.* from another. Now, your Lordships are called upon to conclude, that because these bank notes, at the distance of seven, and fifteen days, being taken by Mr. Douglas from the Exchequer, and being the identical notes received from thence, that therefore Lord Melville must have received the money of the public, and have applied it to his own use. Now here is a charge of corruption, because Lord Melville received the same bank notes which came from the Exchequer. My Lords I have shewn, that in one part of the case, the presumption was contrary to the evidence; I shall now make it equally clear, that this assertion is without the smallest evidence of corruption. Is the inference either necessary or natural

tural? Mr. Douglas is dead, Mr. Trotter was not present at the transaction, and we are now removed to the distance of twenty four years. Henry Drummond is also dead, and of all documentary evidence we are deprived at this period. The manner in which this part of the accusation was pressed upon your Lordships, makes what I say regarding it appear to me expedient. Supposing this was paid by a Trustee, and at the distance of twenty-four years, any person to whose account it might have been paid were to be indicted for the offences here charged. Would it, my Lords, have been borne, in any court of the kingdom, that the evidence should trace the note from place to place, and that after nearly a quarter of a century had elapsed, this should be considered as presumptive evidence? The law of this country, my Lords, is a law of humanity and mercy; it is the protection of the subject, but it would be the bane of society if such doctrines were admitted.

" I trust then, my Lords, that when in aid of this defence, from the remoteness of the transaction, it is considered that Lord Melville was at that time employed in the situations of Lord Advocate of Scotland, of Keeper of the Signet, of Treasurer of the Navy; and that he was active in his professional duties: when in addition to this, it is remembered, that he had an income of eight, nine, or ten thousand a year, shall it be said that for the sake of acquiring 600*l.* in one case, and 1000*l.* in another in order to pay a few bills against him, he was guilty of this peculation. What was the motive? Nearly at that time, he made a remittance of three or four thousand pounds from his estates, and the only object would be to save a few shillings interest upon the transaction. I declare then, my Lords, that such an inference would be contrary to all the humane policy of British law, from which your Lordships will deviate in the plenitude of your judicial power. Then, I say, this is calling for conclusions, contrary to every experience we have of our nature, and with whatever energy the subject may be pressed on the other side, it will have no weight, in the contemplation of your Lordships.

"Now, with respect to the account with Messrs. Muir and Atkinson. A certain sum was deposited in this house, and it was paid from thence to Lord Melville's account. At this time, your lordships will recollect, that there was no act of parliament regarding any public depositary; the money was therefore properly and legally in Messrs. Muir and Atkinson's hands, and there is not a tittle of evidence as to any interest or emolument derived by Lord Melville from it. In addition to this, it is in proof, that Messrs. Muir and Atkinson were not only trust-worthy, but in high credit at that time. Thus, my lords, have I acquitted myself in respect to the first branch of what I had to offer.

"My lords, you have already heard what was the nature of the office previous to the act of parliament, and the argument of my learned friend Mr. Plomer is so conclusive, that I shall say nothing more with respect to the incidents of that period. I beg, that if, in what I say in the sequel for the sake of illustration, I hypothetically admit any fact alledged against Lord Melville, with regard to his obtaining the smallest advantage from the public money, I do not state it is a concession on my part, but merely for the purpose of placing the questions in every possible point of view, that your lordships may be completely persuaded of the futility and inanity of these charges.

"I come now, my lords, to the time in these transactions, when Mr. Trotter was appointed Paymaster; and this period I acknowledge, I approach with considerable anxiety; yet my solicitude in no degree arises from the deficiency of the case of the noble defendant. I am sure, that whatever may be the construction on Mr. Trotter's conduct, with respect to these transactions, he is in his general character that person which Lord Melville has described him to be. I have known him long, and I am sorry he has been exposed to this situation: all I can say is, that if he has done wrong, he has deviated from the natural inclinations of his own mind. In speaking to the transactions posterior to this date, I mean nothing personal. Before Mr. Trotter was Paymaster, the office was in the vicinity of the Bank of England: afterwards it was removed to a distance from it, and this is an important

portant part in the consideration of the case. It is material that your Lordships should see, that the permission of the noble defendant to the carrying on of the business at Messrs. Coutts's, applied to the assigned balances. It was not by this permission intended, that Mr. Trotter should take the money, whether assigned or not, or that when so obtained, he should discount private bills, purchase Exchequer bills, or the national funds with it. It was Lord Melville's design, and I shall prove it upon the evidence, to have the monies faithfully administered as he thought they had been, down to the time when he was surprised by the discourse made to him by Mr. Trotter.

"Lord Melville is blamed for trusting Mr. Trotter. I would enquire, who would not have trusted Mr. Trotter? All the vast intercourse with man which seems to connect in bonds of relation the extremities of the earth, is founded on confidence; if man be not to be trusted, human affairs cannot go on. Mr. Trotter was well recommended to his lordship; he was a responsible person, with rich connections in the banking line, and he had been long acquainted with the nature of the duty which he was called by Lord Melville to undertake; but the leading inducement in the defendant's mind was the excellent plan of reform Mr. Trotter had proposed; and this, my lords, is another most important feature in the case.

"Your lordships will recollect, that the scheme of making use of the public money for private purposes had been commenced by Mr. Trotter prior to the removal of the account to Messrs. Coutts. Now, I would ask the managers, and your Lordships, and the country, how those who conduct the prosecution are to set aside the evidence of Mr. Trotter; and if they, cannot, the trial is concluded, and Lord Melville's innocence is completely established. Mr. Trotter they have characterised as an honest man, who has given to your lordships his history, whose interest on this occasion, if truth were not always his interest, is against Lord Melville, so that in appreciating his evidence, your lordships will never forget the singular situation in which he stands. Now, what does Mr. Trotter say respecting the concession of Lord Melville

Melville in regard to the removal of the account from the Bank to Messrs. Coutts'? He says the reason was, that it would add more facility to the conduct of the business of the office in the multitude of small payments to be made, than if the money were to be deposited according to the constitution of the office, in an iron chest, and that the various parties receiving small payments would be less liable to be imposed upon, than if they were each to receive drafts for such small sums upon the Bank, at such a distance from the office after its removal to Somerset Place.

The perfect security of the money was also represented to Lord Melville by Mr. Trotter, and thus, the matter was established at Messrs Courts', as an official convenience. Observe, my Lords, that the conversion of money to private emolument is not a necessary adjunct to the removal of the account, and the same profits would have been made if it had continued at the Bank.

"But what passed on this subject before the Commissioners? Lord Melville, upon being asked whether he gave permission to the Paymaster to withdraw the money from the Bank, and lodge it in the hands of a private banker, with a view to his deriving any advantage, or emolument therefrom, answers, "If it is meant to ask me whether I ever gave any direct authority to the Paymaster to use the money in the manner above mentioned, I should certainly answer, No.'

"How has Mr. Trotter spoken of it before your Lordships.?

"I will read it from the minutes of the evidence.

Q. You stated that permission was granted by Lord Melville, to draw money from the Bank of England to Coutts' bank? whether the only reason represented by you to Lord Melville for that measure, was not to facilitate the official convenienc?

A. Entirely so, I always stated so, the convenience that would arise and the great security of the money.

Q. State, if you can recollect, how you represented that it would facilitate the convenience of the office, that that transfer should take place?

A. I represented the inconvenience that would attend the payments from the distance of the Bank, and proposed to his lordship, that a banker nearer should be allowed to keep the money in his hands, till I found it necessary to issue it to the sub-accountants.

Q. Did you state also to Lord Melville, in what manner the money would be made secure?

A. I represented to him the danger of sending in drafts to the Bank every day by messengers who were obliged to bring out the produce of these in cash, to supply the daily payments. After-

" Afterwards, it was asked, ' was there the least mention to Lord Melville, at the time application was made for his permission to make the change you have stated, of private emolument to be derived to any body from it?' To which Mr. Trotter answers, ' None whatever; it was never in Lord Melville's contemplation, and I do not remember that it was in my own at that time.

" But, my lords, without reciting to you the evidence at length, I refer to your own minutes, and I say, that instead of Mr. Trotter having asserted that Lord Melville made a corrupt use, or any use to his own knowledge of the public money, he declared on his oath, that Lord Melville knew nothing of any such transaction.

" I say then, that here is a body of evidence, complete in every part of it, given by a person against his own interest, against his own character and honour; the evidence of a witness produced by the prosecutors, on whom they have relied indeed for establishment of their charges, but who has refuted every one of them, with which he had any connection from the time he became Paymaster. I say then, my Lords, that when official convenience is the object, without official risk, is it likely, is it possible, that under the circumstances Lord Melville could have in contemplation at the time of the transfer of the account, this frivolous employment of the public money which has been attributed to him. It seems to me so plain and clear, that no argument can make it stronger; it stands my Lords, upon the simple fact by a witness, who through the whole of his testimony, has given a distinct, intelligible and honest account, whatever his conduct in other respects may have been.

" But now we come to that part of the subject which respects the money made by Trotter to a great extent, the large balances he had at first in his hands, and which were so considerably increased in the subsequent part of his paymastership. Your lordships will not take the fact as you would have received it after the experience had of Mr. Trotter; but for this purpose, you will imagine him to be, what Lord Melville supposed him, a man of integrity, of respectable connections, and meriting the highest confidence. It was necessary, in Lord Melville's

situation

situation, that he should place this confidence, and he seemed to have every reason to confirm his opinion of Mr. Trotter's fidelity; the public were never delayed an instant in the satisfaction of their demands, and no complaint was made of neglect or irregularity. With respect to Mr. Trotter's fortune, on the evidence it appeared, that his acquisitions were not merely the salary of his office; such a conclusion would not only have been unnecessary but erroneous, for Mr. Trotter had family connections from which he derived no inconsiderable property. If Lord Melville borrowed money of him it was because he himself had no connections to enable him to raise money; he was engaged in great affairs, and from that station, as well as business, was not likely to have any intercourse with people of that description: on the contrary, Mr. Trotter's relations and connections were very much of that kind, and it was perfectly natural of Lord Melville to apply for occasional assistance in pecuniary affairs to a gentleman in his own office so circumstanced.

"But was Lord Melville the only person who placed confidence in Mr. Trotter? Lord Harrowby held the office of Treasurer of the Navy in the year 1800, and Mr. Charles Bragge Bathurst in 1802, and Mr. Trotter was Paymaster to both these Treasurers.

Does it appear on the evidence, before the Commissioners of Naval Enquiry, as well as all the subsequent testimony you have heard here, that Lord Melville did learn, from any fact within his own knowledge, that Mr. Trotter made any profit of the public money. I will read from the examination of Mr. Trotter.

Q. You have been asked as to your own use of the public money removed from the bank of Messrs. Coutts; you are understood to say that you made use of it in point of fact for your own benefit?

A. I certainly made use of that part which I found was not likely to be claimed for my own benefit.

Q. In what mode was that made use of?

A. Generally by lending it at interest; at times by investing it in Exchequer or Navy Bills, or other government securities.

Q. Was that to a very considerable amount?

A. It was.

Q. Were the whole profit and emolument derived from that mode of laying out the money which you have described entirely your own?

A. Entirely.

Q. Was

Q. Was any intimation or knowledge ever communicated to Lord Melville of the public money having been so used?

A. I never made any such communication to Lord Melville.

Q. Did any one circumstance happen during the period of Lord Melville's executing this office, that should have called his attention from any interruption the public service received during any part of the period, owing to the use that was making of the public money?

A. I never heard of any.

"What did the honourable manager say, when he appeared as a witness? He was asked, 'Did not the noble defendant, at the same time, accompany it with a positive declaration, that he had not converted any part of it to his own profit or emolument?—I believe he did.

"Have you the least doubt that he did so?—As to the express terms, I do not remember them, these that I have spoken to are the words that made great impression upon me, and which I shall never forget; the import of the other parts of his speech certainly was, that he had not applied it to any private advantage or emolument.

"In substance it was to that effect?—I have said so.

"That the honourable manager has no doubt it was?—I have said so.

"This account given by the honourable manager exactly coincides with the depositions of his lordship before the Commissioners I have named. Lord Melville says, as we collect from the mouth of the honourable manager, that he had not converted any part of the money to his own profit or emolument; and this is a direct contradiction to all that has been alledged about any corrupt use by Lord Melville of the public monies in the form of loans, India stock, reduced annuities, or any other shape whatever. The account also from the honourable manager is conformable with the testimony given by Mr. Trotter.

"The honourable manager is disposed to admit one part of Lord Melville's testimony where he makes any concession at all tending to the construction he is desirous to maintain, but he will not take the whole. This is not the mode in which testimony ought to be received. Yet I do not admit that there is any such tendency; I contend that there is not an iota of evidence in support of any such charges, and that Mr. Trotter, in the rational and consistent evidence he has given, has shewn

the direct contrary, and that all proof in the case, written or parole, goes in the same direction. What is this? It is an absolute negative to the allegation that the noble defendant employed any money for his own gain; and this is consistent with what Lord Melville declared in November, 1804, and in the subsequent year, which the honourable manager states from his memory. I will venture to say, that according to all the probabilities familiar in human affairs, from a calm, temperate review of the whole, no inference can be drawn different from that I have stated.

"Sir William Forbes told your lordships, that it was the practice in Scotland, for bankers to allow three per cent interest on a running account; and four per cent if any particular sum of money should remain undisturbed six months. When Lord Melville said, speaking of the profit derived by the Paymaster, 'I have no hesitation in saying, that I believed and understood he did (use the money) and never prohibited him from doing so,' it is natural to suppose that Lord Melville, unacquainted with the peculiarities of banking-accounts in this country, presumed, that some such allowance as this three or four per cent was made to his Paymaster by Messrs. Coutts. I know very well, that Messrs. Coutts do not pay interest on any floating accounts of their customers; and I am aware also, that no banker of credit in London would make any such allowance, but it is extremely likely that Lord Melville should be unacquainted with these practices in this country, so different from those prevalent in his own.

"Mr. Trotter says, that from the distance of the Bank, after the removal of the establishment to Somerset Place, he could not get the money from thence with safety, and therefore proposed to Lord Melville to let him send to Messrs. Coutts the assigned balances for which he had a right to draw. Thus far, at least, the account was with Mr. Trotter according to the course of office: Messrs. Coutts are his private bankers; he employs them as the agents or clerks, and a distinction is attempted to be shewn here where there is no difference. The change of place does not alter the thing; whether, after it underwent the change, it was misapplied, is not

the question before your lordships on this part of the case.

"My lords, I have now stated on the evidence, that the money was so removed from the Bank, that Lord Melville knew nothing of the profit acquired by Mr. Trotter. When he was made acquainted with it in June, 1804, it occasioned in him some surprize and embarrassment, and was the cause of the answer he gave to the Commissioners of Naval Enquiry soon after. I have also shewn, that Lord Melville was fully justified in declining to make any reply, and that every honest man ought to have done the same.

"Then, and not till then, his lordship heard that Mr. Trotter's private and public accounts were blended together, and the cause of his astonishment was, the discovery that the account was not kept officially as it ought to have been; and, my lords, how could he think otherwise, since, in the course of sixteen years, one hundred and sixty-five millions of money had passed through the office, and there had not been a single impediment as to the payments, from the highest amount down to a sixpence; not one widow or orphan sent away without the reward due to the memory and to the services of the brave martyrs to the defence and glory of their country.

"Will it now be said, that Lord Melville, of a generous, unsuspecting temper, ought to have enquired, or could be expected to have enquired farther respecting Mr. Trotter. There was no official neglect, the proceedings went on without the smallest interruption, and the conclusion was natural, if not unavoidable, that all was right.

"Then your lordships have it on the evidence of Mr. Trotter, that he was always attentive to public matters, although regardless of his private concerns. In the former, from the benignity of his mind, he was peculiarly interested in what conduced to the happiness of persons in the lower situations of life, whose numerous privations and hardships demand that they should receive all possible comfort and assistance from a national institution. There, my lords, you always find him anxious and vigilant, and from the time of Mr. Grenville to the present moment, a better subject of the state has not occupied

the office of Treasurer of the Navy. Such was his solicitude for those who gallantly defended their country; and it is owing to the solace and protection they and their families have received, that the country is now in a condition of order and security, instead of a state of chaos and ruin, in which I could not lift up my voice, the advocate of innocence and truth, in this august assembly. My lords, we are to be told, that the love of money is the crime of such a man.

"It would have put a different character on this enquiry if Lord Melville had known, before the time I have noticed, of the mixed and irregular accounts of Mr. Trotter. It might then have been a question in his mind, by whom the money was to be paid in the event of any loss, and his attention must have been drawn to the subject.

"My lords, the testimony of Mr. Trotter, as to this particular, no part of the re-examination has shaken. You have heard him declare that Lord Melville knew nothing of the mixed account, and that he was wholly unacquainted with it until June, 1804, appears upon the evidence.

"Now, with regard to the first Treasurership, I think all the difficulty is removed, and I have said, what really seems unnecessary before your lordships (well instructed in the public duty you undertake), that presumption without proof will not support these charges. You have seen, that the regulations proposed by Mr. Trotter with regard to the transfer of the account to Messrs. Coutts, was a mere official arrangement of convenience, but that the knowledge of any profit being connected with this arrangement, or of Mr. Trotter having made any emolument from it, or of the blending and confusing the public and private accounts; of these things, my lords, it appears distinctly clear on the evidence, that Lord Melville was utterly ignorant.

Having spoken thus generally on various circumstances connected with these charges, I will now speak to some particular items of account. Your lordships will recollect, that I have already adverted to the two sums of 1000*l.* each, but, with regard to the 10,000*l.* I have omitted to state, that there is no evidence that this sum was drawn from the Bank. It consisted of assigned

signed money lodged at Messrs. Coutts', and it was assigned for naval purposes, and to naval purposes it had been applied, having been restored by Lord Melville for that purpose. It is impossible, my Lords, with any appearance of justice, to draw the inference, that Lord Melville employed this sum to his own profit: such a conclusion might have been indiscreetly applied to the 40,000*l.* before the discovery of the direction given to it; and your Lordships are now informed, that it was exclusively, and beneficially devoted to public purposes.

"I come now to state shortly the facts respecting the 4,000*l.* which have been adduced to shew a corrupt intention. Lord Melville borrowed 4000*l.* upon bond; and it is alledged that Mr. Trotter lent it him without interest. It is singular that such a trifling circumstance should be brought in support of these charges. There is nothing in the evidence to shew any corrupt intention with regard to this sum. The question here, my Lords, is not on the principal, for that has been returned, but on the interest, which they say has not been paid. Whether it was, or was not paid, this I know, that a man who wished to aggrandize himself by the acquisition of money, and possessing the large means of obtaining it Lord Melville's situation afforded, does not look to these small contemptible discount profits, especially, a man of the exalted rank of the noble defendant.

"After Lord Melville came into office, Mr. Douglas died; and there is a receipt produced of his Lordship for the old fees for upwards of 4,000*l.* It is said, that the Exchequer fees have always been considered Paymaster's money, and that it was to be held by him for his own profit. Then Lord Melville receives this amount from the executor of Mr. Douglas, and he gives it to Mr. Trotter; but Lord Melville need not have given it to Mr. Trotter. Is this supposition of the honourable manager respecting the interest, at all consistent with Lord Melville's integrity in that transaction?

"But, my Lords, let us look to the evidence. (The learned counsel here read the evidence as follows: see page 167* and 168*.

Q. Was any security given for those (specific) sums?

A. His Lordship granted me a bond and security for 4,000*l.* which I advanced him in or about that year (1786.)

Q. From

Q. From what sum was that money, or those sums composing the 4,000*l.*, advanced?

A. I was enabled to advance that sum of money to his Lordship from the fund which I have already explained, having the controul of that which was put into my hands for the payment of Exchequer fees: and as I had money upon two different treasurerships which would not probably be called for, but had always been allowed to remain in the pay-master's hands for the trouble of making up the Exchequer accounts; I knew that money would not be called for till I should leave the office, or the accounts should be audited, and from that account I advanced his Lordship 4,000*l.*

Q. Did that sum of 4,000*l.* advanced by you, bear interest?

A. I charged no interest to his Lordship for that sum.

Q. Did the bond bear upon the face of it, that it was with interest or without?

A. It did not bear upon the face of it that no interest was to be paid, but no interest was expressed to be paid.

Q. Was interest expressed to be paid on the face of the bond?

A. It was not.

Q. Why did you advance a sum of money to Lord Melville without interest?

A. I did not feel myself entitled to charge interest to his Lordship for money which had been put into my hands under the situation I have described.

Q. Did you mention the reason to Lord Melville why you did not charge interest?

A. I did not; nor did I press it upon his Lordship's attention so much as to know whether he ever knew that it did bear interest or not.

"How can a corrupt intention be supported on such evidence; and such was his Lordship's negligence in his own concerns, that he does not seem to know if interest were charged or not.

"Then Mr. Trotter is represented in poor circumstances, and to be not able to lend money to Lord Melville from his own fortune and resources. Is it reasonable to say, that the Paymaster of the Navy, in the situation, and with the connexions of Mr. Trotter, could not raise 4000*l.* on the credit of a bond of Lord Melville? But whether he could, or could not, the bond was soon afterwards paid off and cancelled; and up to this time at least, nothing has passed, to shew a corrupt use, or a corrupt connivance at such use of the public money; and this brings me up to the years 1787 and 1788, when we hear of remittances from Scotland, and upon this part of the evidence, I contend, that it is perfectly clear that considerable sums of money were received on his Lordship's account from the country, and that such remittances will easily account both for investments in the public funds,

and

and the application of money elsewhere, on account of his Lordship, without its being at all necessary to conclude, that the monies so directed were extracted from the public purse.

"Thus, my Lords, I trust we have disposed of every part of the case down to the dates I have recently noticed; and now I shall proceed to a very essential circumstance, in commenting on which I shall endeavour not to repeat a word, or, if possible, not to retrace a sentiment which has been expressed on this part of the subject, but I shall state what occurs to me, as being highly important. I shall shew that the inference of the honourable Managers is in direct contradiction to their own evidence, and that your Lordships must either consider their testimony or their inference as nugatory. It is not the course in this country to admit inferential reasoning to prevail over positive evidence. I shall satisfy your Lordships yet farther, that on any principles of common sense and human probability, even their own inferences which they thus set up against their testimony, are erroneous. My Lords, this is not like a question of a civil right; you will not on this occasion suppose a knowledge in the party which he did not possess; the presumption is always, not in favour of guilt, but of innocence.

"When the honourable and learned manager spoke of Lord Melville, he introduced him to you as a person of great ardour of mind, long practised in political life, instructed in the erudition of the bar, educated in every thing that could enlighten the understanding; and to all this he adds, that the noble Defendant was endowed with a correct knowledge of the heart of man. My Lords, what was the purpose of this eulogy? Was it to excite your veneration for the noble Defendant? Was it to shew that he was incapable of the meanness of avarice? No, my Lords, it was with no such design; it was to produce the fine effect of contrast, and to persuade you, that his luminous intellect could not be so imposed upon by the idle story of Mr. Trotter, and that Lord Melville was perfectly informed all along of the employment of the public money for his use in India stock, in the national funds, or any other form of investment. Now the mouth of the witness is opened, your Lordships have a full opportunity

portunity of examining the truth of the case; and I would willingly here take my stand, and say to the honourable managers, from hence you cannot remove me. I am confident your Lordships will find, when the matter comes to be investigated, that the truth is, that Lord Melville was ignorant on the matters relating to his accounts, until after the examination before the Commissioners of Naval Enquiry.

"Mr. Trotter has told your Lordships, that there were balances in his hands, which might long before have been used in the purchase of stock. How then was Lord Melville to suppose that he was applying the public money to his Lordship's use, or that for such a purpose, any official regulation was disregarded? disregarded by Mr. Trotter, who for four years had discharged all the duties of the office, during which time, not the smallest impediment had prevented the progress of the machine? To infer, under these circumstances, that Lord Melville is guilty, is a violation of the common principles of reasoning, obvious and palpable.

"I have now to state to your Lordships, what is the real view of the case, with respect to the purchase of the East India stock: Montague Lind is the apparent owner; it was transferred to him after a certain time, and the evidence with respect to it, thus appears on the minutes. It is first asked, Did you give directions in or about the year 1789 or 1790, for the purchase of another sum of East India stock, for the benefit of Lord Melville? To this Mr. Trotter replied, I gave directions in the year 1789 for the purchase of a sum of East India stock for Lord Melville's benefit. Then follows a conversation between the witness and Lord Melville, to which I will advert presently. Next come the subsequent particulars:

Q. Did Lord Melville never enquire the name of the lender of the money?

A. I do not recollect that his Lordship ever did: I had stated in such positive terms that Mr. Lind could do it, that I never found it necessary to mention the circumstance again to Lord Melville, but took it for granted that he had thought I had concluded the transaction in the way that I supposed it could be effected.

Q. Did you mention Mr. Lind's name to Lord Melville at that time?

A. I did.

Q. Were the dividends upon that stock carried to the credit of Lord Melville's account?

A. They

A. They were.

Q. Did you direct any transfer to be made to Lord Melville of any part of that stock at any time previous to the year 1800?

A. I have no recollection of that circumstance. It was mentioned to me yesterday, but I do not recollect it.

Q. What was the amount of the sum originally expended in the purchase of this stock?

A. I have stated it in another place, and I have no reason to alter my opinion now from my recollection that it was 23,000l.

Q. Did the debt for the purchase of that stock continue to that amount until the stock was replaced, or repaid for?

A. It did not.

Q. In what manner, and to what amount was it diminished?

A. It was diminished by payments from his Lordship to me, to the sum of 20,000l. upon which his Lordship continued to pay interest to me until the final settlement of our accounts.

"Thus it stands upon the evidence. In 1791 the stock was in the name of Montague Lind. A conversation arose regarding India funds, which was a favourite subject with Lord Melville, as India affairs in general were a topic to which he was partial in parliament. Mr. Trotter observed to his Lordship, that if he were impressed with so good an opinion of that stock, he ought to invest a sum of money in it. Then the India stock was bought in the manner and under the circumstances which appear in the evidence, and the honourable and learned manager contends, that this money could not be got from any money-lender in the market, without some better security than the stock itself.

"Your Lordships will observe the nature of the transaction; 13,500*l.* or 14,500*l.* it is not material which was to be bought. The purchases were to be progressively made, and the money was ostensibly to be advanced by Montague Lind; but in point of fact, the money was supplied by Mr. Trotter. Subsequently 3000*l.* was paid off from this fund; the whole purchase money was 23,000*l.* and it was a rising stock. By the payment just noticed, the result was, that the security of the stock was for more than the money advanced, and Lord Melville was himself personally bound to answer to any loss. Observe, that this was in a time of profound peace, when Lord Melville was in the zenith of his power. Money at that time was lent at four, and four and a half per cent, and no monied man would have refused lending his money on competent security at 5 per cent. Lord Melville knew

what was his own high station, and he knew the condition of the money market. Was it then unnatural for him to expect that the money could be procured at a liberal interest and on such security? Was there any thing improbable in the thing itself, that a man possessed of money, with the *animus lucrandi*, should make the loan on such security? It seems to my mind, that there is nothing strange or unaccountable in such a transaction. Had his Lordship knowingly taken the sum for this purpose from the public money, all that the honourable and learned manager has contended would have been feasible: but there appears to me to be in this commentary on the other side a desire to stretch conjecture to an extent that I never before saw attempted. Who was Lord Melville? He was Treasurer to the Navy, President of the Board of Controul, the intimate friend of the Prime Minister, a distinguished Member of Parliament. Was it then an act of imprudence to trust the money in such hands, and with such security? This was not a purchase to sell again immediately and fluctuate in the market, it was a transaction that Lord Melville thought eligible, and from his view of public affairs he intended to hold it as a permanent stock, as he would an estate, if he thought the value of land was likely to improve. If he had purchased an estate with the appearance of profit, would it not have been thought that his Lordship had as good a right to do so as any person in the kingdom? and I contend that he was not to be excluded from the funds any more than he was from speculating in land, buildings, or any thing else. Nay, farther, I say it was peculiarly proper for him to purchase India stock, holding the situation he did, of President of the Board of Controul. He thereby shewed to the public his opinion of the affairs of India; of the confidence he placed in that remote government upon which the prosperity of the country so essentially depended. I say, my Lord, if with this view he had made the purchase he would have done right, but it was not done until sixteen years after the negociation of the business, that he was made acquainted with the particulars of it.

" Is it, my Lords, now possible to say, with this semblance of reason and justice, that because Mr. Trotter performed this act, Lord Melville was culpable. Mr.

Trotter took the money from the public money without the knowledge of Lord Melville; he applied it in the purchase of this stock, and the effect with respect to Mr. Trotter was this, that he obtained 5 per cent from Lord Melville or the public money for his own advantage, when he could not have procured such a rate of interest elsewhere. The motive of Mr. Trotter is quite plain, it was the most beneficial way in which he could invest the money under his controul. Your Lordships distinctly perceive, that there was but one interview between Lord Melville and Mr. Trotter upon this subject, and that this was the first and last time he opened his lips regarding it; or upon any other subject connected with the application of money for the use of Lord Melville. I will recite what passed in the interview to which I have just alluded, from the evidence, with which I shall conclude what I have to offer on that part of the case.

"Mr. Trotter was asked, if he was able from memory to state what passed between Lord Melville and himself on that subject? To that question he answers in the following terms.

"I will state the transaction as far as my memory will carry me. It was in consequence of a conversation I had with his Lordship in which he stated his opinion of the value of East India stock from the probable rise that would ultimately take place in it; and I observed to his Lordship that if he was impressed with so good an opinion of that stock, that I thought in consideration of his own interest, he ought to invest a sum of money in it. I had mentioned to his Lordship that there were considerable balances lying at all times in my hands, that were not called for, and in all probability would not be called for, from circumstances which perhaps I need not relate at this time. But it was money lying unclaimed in my hands, which it would not be necessary to advance to the public until they were claimed, and there was no prospect of that claim taking place soon; and I advised his Lordship to give me leave to lay out so much of that money as would buy about thirteen or fourteen thousand pounds of East India stock, but this his Lordship refused, in the most pointed and decided manner, insomuch that I was afraid I had incurred his Lordship's displeasure by pro-

posing it. But it came into my mind at the same moment, that it would be possible to borrow a sum of money upon the security of that stock and I proposed to his Lordship that I should endeavour to do so, and that I should expend that money in the purchase of East India stock. To this his Lordship readily assented. I mentioned that I then lived with a relation of my own, who was a man of great importance in the city, and that he would be enabled to raise this sum of money for me. In short I made it an easy matter to his Lordship. But when I applied to Mr. Lind, the gentleman to whom I alluded, I found that I was mistaken, and that it was not an easy matter to raise money upon that security; but I was unwilling to disappoint his Lordship in what I had so sanguinely told him I could effect, and I never acquainted his Lordship with the difficulty that had arisen, but assisted Mr. Lind by advancing from the public money of which I had the management. I never had occasion afterwards to mention the circumstance to my Lord Melville until April in the last year, and he was perfectly unacquainted with my having made use of the public money in that transaction, and I charged his Lordship a regular interest for the whole of the money which I advanced, until the final settlement of our accounts."

"I shall now, my Lords, solicit your attention to the state of the balances.* Your Lordships observe that in 1788, when there was a rupture with Spain, they rose considerably. They were then reduced during five long years, until 1793, when there was a profound peace; and again, when the war breaks out, Mr. Trotter increases his own balances, and hence arises the augmentation in the account. Between this time and that of the negociation of the loyalty loan, it does not seem to me that there is the least evidence which has any tendency to fix a corrupt intention upon the noble Defendant. Eight years elapsed before there occurred any thing to which it was possible to attach any pretence of testimony to corruption in Lord Melville.

"Having proceeded thus far onward, your Lordships

* See the Appendix C.

arrive

arrive at the transaction respecting the loyalty loan. This loan, your Lordships know, was a contribution patronized by all persons of power and fortune; and it was perfectly understood, a matter of general notoriety indeed, that the object of it was, to promote the public prosperity, and not the private advantage of the subscribers. Under these circumstances, it was not at all surprising that a person in the situation of Lord Melville should contribute 10,000*l.*: a late illustrious statesman also subscribed, and it has been seen that it was impossible he should pay the money, nor was it expected that he should. It appears then, that this, at least, was no speculation in the funds with the view to profit. The first payment for this stock was made by Mr. Trotter; but how little he knew of the matter appears on the evidence, which appears on the minutes in these terms:

Q. Did you direct to be purchased a certain quantity of stock, commonly called the Loyalty Loan, in or about the year 1797?

A. I did not, to the best of my recollection.

Q. Was a certain quantity of the Loyalty Loan subscribed to for the benefit of Lord Melville, by you, or under your authority, or paid for with money coming out of the funds you have described before?

A. There was no such stock subscribed for by me, or purchased by me; I believe payments were made by Messrs. Coutts' house, as far as I can understand and recollect, and they were afterwards paid by me to Messrs. Coutts' house.

Q. Was that loyalty loan, the price of which was paid originally by Messrs. Coutts, and then repaid by you to Coutts, for the benefit or on account of Lord Melville?

A. It was repaid by me to Messrs. Coutts for Lord Melville.

Q. Were the dividends upon that loyalty loan carried to the credit of Lord Melville, in the account current between his Lordship and you?

A. They were.

Q. What was the quantity of that stock so purchased for Lord Melville?

A. I understood, from the first question on the subject, that it was 10,000*l.* then alluded to; it must therefore be 10,000*l.*

Q. Was Lord Melville debited in the account current between his Lordship and you for that sum of 10,000*l.*?

A. I believe he was.

Q. From what sources did you derive that sum of 10,000*l.* to supply Messrs. Coutts for the purchase of that loyalty loan?

A. I cannot state the sources distinctly and separately, as they were upon different payments, unless I had documents before me, which I have not.

Q. From what fund or funds did you derive the various payments which constituted the 10,000*l.* repaid to Messrs. Coutts for the purchase of that loyalty loan?

A. Some of the payments I drew from the bank, and put into Messrs. Coutts'

Coutts' hands; others I drew from my private account at Messrs. Coutts', and paid them into the account of Lord Melville.

Q. Did that private account from which you gave some of these drafts consist of public money, and a part of it of private money?

A. It consisted of both.

"It has been supposed that Mr. Trotter was the pander to Lord Melville's gains, and your Lordships see here, how little he had of the character of an active instrument, and how imperfect his knowledge of the transaction. The business appears to be done in this way. The money is paid by Messrs. Coutts, and repaid by Mr. Trotter out of a mixed account, in which no balance is struck, and Lord Melville hears nothing of the transaction until the year 1800.

"All the stock is afterwards put into Mr. Trotter's power; and will any man contend, that Mr. Trotter had not the authority to go into the market for Lord Melville and sell the loyalty loan, or any other stock under his controul, until he was reimbursed in the mixed account. On the 27th of September the last payment was made on that stock, and on the following day the power was executed.

"This is the situation with regard to the loyalty loan; but it does not rest here. We have evidence behind, which, when I come to state it, I trust will give a clue not only to this, but to many other parts of this extraordinary case. Mr. Trotter was asked, why he transferred the loyalty loan to the chest account? To which he replied, that it was from anxiety for his own interest. Then there is a great deal of evidence as to the nature of this chest account, and it is also in proof that Mr. Trotter never called Lord Melville's attention to it at the time. Now let us see what this chest account is. It is a memorandum for particular purposes, and for money in a certain form. One sum of 10,000*l.* was carried to it, and another of 40,000*l.* making together 50,000*l.* carried to the chest account, and no other in the first instance. It was not so with the loyalty loan; that was not carried to the chest account until afterwards. Mr. Trotter says that Lord Melville knew nothing of his accounts (speaking of his private affairs), and this is proved by the evidence. It also appears, that Mr. Trotter was secured upwards of 20,000*l.* when the loyalty loan was made up. Supposing Mr. Trotter had died, and had left no vestiges behind him of the transactions, would not Lord Melville have

have been in the situation of responsibility upon the chest account, although he had given complete security. This confirms what Mr. Trotter has said, with regard to inattention to his private concerns; otherwise, would his Lordship not have said, Do you mean to render me liable to be charged in this double manner? You are not contented without making me responsible for 10,000*l.* and to what is much more alarming, an impeachment in parliament, to answer to that, to which, through your obscurity, I am not able to reply.

"This view of the case, detracts in no degree from the honour of his Lordship, but it exposes certainly a defect, and proves his inattention to his own affairs: it proves more; it shews that he was particularly inattentive to the chest account; and it proves to demonstration, as much as if an angel had spoken it, that that particular item was not, to Lord Melville's knowledge, in the chest account."

(After some further observations on the impossibility of inferring crime from ignorance and negligence, the learned counsel proceeded to the consideration of the evidence on the 7000*l.* reduced annuities, purchased on account of Lord Melville.)

"The evidence, as to the 7000*l.* reduced annuities (said Mr. Adam), appears to be as follows:

Q. Was that purchase made by any directions from Lord Melville of 7000l. three per cents.?

A. It was made without any directions from his Lordship.

Q. How came the purchase to be made without any directions from Lord Melville?

A. I made it in the general management of Lord Melville's affairs; I believe a sum of money had come into my hands at that time for his Lordship and I thought it was proper to invest it in some manner to produce an interest to his Lordship.

Q. Is it to be understood that funds had come into your hands, which before that time had been carrying a productive interest to Lord Melville?

A. I believe they had, either previously, or a few days afterwards: one of the payments was, I think, upon a bill which ought to have been due upon the very day I made the purchase, but I believe the bill had come into my hands previous to my making the purchase.

Q. Was any precise communication ever made to Lord Melville respecting the mode in which that purchase had been made, or any particulars respecting it?

A. I probably mentioned it when I presented my accounts to him, but I do

I do not recollect any particular conversation that I had with his Lordship on the subject.

"I should think, my Lords, that the mere statement of this evidence is sufficient to refute the charges grounded upon it.

"I have now, my Lords, only to address to you one or two more observations, for in the midst of this great variety of charge and allegation, I shall not think it necessary to enter in detail into minute matters.

"Is there any man, my Lords, who standing in the near connexion of friendship which Mr. Trotter did to Lord Melville, who would not be disposed to act as private agent, especially with respect to a few items, attended with little trouble and no difficulty? Considering the relative situation of Mr. Trotter to Lord Melville, it would have been a disgrace to him if he had not so far consulted his Lordship's convenience. But this agency does not prove that the noble Defendant had any knowledge of the manner in which Mr. Trotter acted for him. Both the written and the parole evidence shew Lord Melville's ignorance in this respect; and Mr. Trotter's testimony, in particular, is conclusive on the subject.

"Then as to the destruction of the papers, it seems that Lord Melville signed the release without reading the clause respecting it, and without knowing any thing about it. Mr. Trotter says, that no directions were given, to the best of his recollection, regarding the clause. Lord Melville signed it on the 18th of February, Mr Trotter on the 23d of the same month, and the former never had any draft sent him of the instrument for his approbation. Thus the noble Defendant only saw the engrossed copy, which he signed at Melville castle. With regard to the papers which Mr. Trotter burnt, no ingenuity can make these affect the conduct of Lord Melville.

"It is a strange mistake to suppose that Lord Melville had destroyed vouchers and accounts on official business. What he destroyed were only papers accumulated upon him in a long course of time, and thus Lord Melville is completely discharged from all this weight of malversation.

"There may be unfavourable inferences from the destruction of papers, but from such papers there could be nothing

nothing to learn respecting these charges. The proofs of criminality must be supplied from the public books, and not from such loose materials. It would be strange indeed to conclude his Lordship to be criminal from such a clause, which he never read.

"From the moment Mr. Trotter did declare the nature of the transaction, all embarrassment on the part of Lord Melville was over. What dictated Mr. Trotter's silence, led to the destruction of his papers by him; and when your Lordships have seen a direct motive for this act by Mr. Trotter, is it consistent with your Lordships' justice to attribute culpability to the noble Defendant? All the silence of Mr. Trotter would have availed nothing, if the commissioners could have obtained his papers; if these had been acquired, his taciturnity must have been abortive. His object is clear, it was to protect himself from criminal and civil actions.

"This seems to me to wind up all the observations necessary for me to make on the case, which I have in trust to defend.

"I have to return to your Lordships my sincere thanks for the indulgence you have given me. When you come, my Lords, to examine more at leisure this evidence—when you contemplate the liberality of the noble Defendant—when you recollect that his heart was never debased by avarice—when you consider the whole tenour of his life, and compare every part of his history with the allegations contained in these charges, I am fully persuaded that his innocence will be completely established in your minds, and your Lordships will pronounce the verdict of not guilty. I admit that the warrant signed by his Lordship might expose him to civil obligations, but whatever may be the extent of this contract, it is of no importance to the noble Lord on a criminal charge. I say, he has not been proved corruptly, intentionally, or at all to have taken a sixpence of the public money, and hence it is unnecessary to reason on the operation of the warrant. I contend also, that the argument from the statute is as clear as the reasoning from the facts, and that both in law and fact he is clear of all guilt. The *mens rea* is what alone can establish his conviction, in this country, renowned for the humane policy of its penal

code. I have endeavoured to shew, my Lords, the honourable silence of the noble Defendant, from his sense of public duty, personal honour, refinement and delicacy, and I have contrasted these sentiments with the silence of Mr. Trotter, from the motives by which it was dictated. The character of Lord Melville is now to be restored to him by your decision: he has borne his calamities with fortitude, and, conscious of his own integrity, he will await that decision with a tranquil mind.

FOURTEENTH DAY.

FRIDAY, MAY 16TH.

SIR ARTHUR PIGGOT

ROSE to address their Lordships, and said, that the object of the Managers of the Commons was, to diminish as much as possible, their Lordships' trouble after the diligent and persevering attention of the Court; the Commons however keeping always in view the great ends of justice which must be attained. Until a recent state of these proceedings, he had hoped, that it would not have been necessary that he should trespass for a moment on their Lordships' time, and that his honorable friend who had opened the business, would at this time have proceeded to close it: but the peculiar manner in which the defence had been conducted, had made a trifling variation in the plan of the prosecutors. If the defence of the noble Lord had been merely directed to weaken the evidence, and to prevent any inferences not legitimately consequential to the facts, their Lordships would have heard nothing from him: but the learned counsel had taken a different course. Instead of examining the different facts, and the testimony to them, they had ventured to give a construction to a statute, so erroneous, and so dangerous, as to require a very deliberate examination lest it should go forth to the world, that public officers might plunder the purse of the state with impunity. It had been represented that the trust reposed in a great officer of government, was like a contract between private individuals involving only civil obligations. Their Lordships must go to school again to imbibe such new doctrines, they must seek other instruction than that to which they have been accustomed, if they were to learn, that under a remedial law, a public officer was not penally responsible.

The learned and honorable Manager said, he should confine his observations to the points of law only, unless he slightly touched upon the facts merely in illustration of his legal opinion. " If the construction of the act as stated before their Lordships was correct, the statute was waste paper, it was absurdity, it was what was infinitely worse, it was a mockery of parliamentary institution. Were we to discover at the commencement of the nineteenth century, that there was no security for the public? If we were to be told that public officers might apply the money exacted from the people by an oppressive system of taxation, from what notions of human nature could we suppose that the patience of the inhabitants of this empire would enable them to sustain the burthens imposed upon them. When the exorbitant abuse of public trust had been exposed before parliament, measures were taken to prevent the repetition of them; it was seen that the daring mariner, who encounters the danger of the ocean; that the gallant soldier who braves the enemy on the field of battle, were likely to be deprived of their just reward by state plunderers, and immediate reform was necessary; not only for the honor and happiness, but for the very existence of the country as an independent kingdom. He would not follow the example of his learned friends in collecting the law from the debates in the senate, or from the opinion of any individual member of parliament, however respectable for his talents, and his virtues. In 1780 there was a commission appointed to enquire into the state of the finances, and the state of the public expenditure; why the money was taken out of the Exchequer, and whither it was conveyed, Gentlemen were industriously employed for seven long years in this investigation, and they progressively made representations to parliament on the subject. Their object was not only to fulfil their duty with vigour, but to discharge it with humanity. It was not the design with the Commissioners to visit individuals with severity; if a habit had grown up, if private emoluments had been long connived at, they did not wish to institute prosecutions, and disturb the repose of families; they were not disposed to make the children suffer for the sins of their parents, and such as had obtained hereditary places, and ill-gotten

patrimony

patrimony, they were willing to leave in the enjoyment of the fruits, but they were determined to prevent the perpetuity of this perilous system. They looked not to the past, they only contemplated the future. Among the regulations which originated with this important institution, was the reform of the office of the Treasurer of the Navy; and in consequence of their recommendation, the act was passed, by which all difficulty and doubt was removed, until it had been suggested on the occasion of this trial, by the learned counsel on the other side; and the intention of it was, not merely to direct the conveyance of the money to the Bank, but to prevent its issue from thence, excepting for public purposes. It was to destroy all intermediate deposits; that the money should have no place of repose between the coffers of the Bank, and the pockets of the public creditors. What right had Mr. Trotter to assume to himself wisdom superior to the collective experience of parliament? Instead of placing himself above the legislature, whose will had been declared by repeated statutes, if he conceived any thing to be wrong in the regulations made, he might have submitted his opinion to the consideration of parliament, which would have interposed its authority if it were deemed necessary.

"This remedial law had been imagined to be so clear in its terms, that this was the first time it had been brought before a court of judicature. All courts in the construction of laws of this kind, assist themselves by attending to the objects of the statute, or to the evils intended to be removed by it."

(The honourable and learned manager here entered into the particulars of the third and eighth report of the commissioners for auditing the public accounts; the latter was particularly directed to the office of the Paymaster of the Forces; and he took an opportunity of making a comparison between that official situation, and the state respecting it, with the office of Treasurer of the Navy, and the act restricting its duties.)

"The leading view of the legislature, was the safe custody of the cash of the office, and were they so ignorant, that having this design distinctly before them, they could not apply the terms explanatory of it? If the construction of the learned gentleman were right, this great

and

end would be wholly disappointed, and the members must be those drivellers which such a conclusion implies. The Commissioners were of opinion that assigned bills, of which so much had been said, might be as well paid by drafts on the Bank, as in any other way, and why not? Could it be said to any man of sense, that it was not as commodious to receive money at the Bank of England, as at the shop of Messrs. Coutts? The assigned bills were for large sums; few were for so small an amount as 500*l.* hence this excuse about assigned bills was a mere contrivance to defeat the salutary purposes of the statute. Then it was said, that money was to be paid from the office in items below 20*s.* 10*s.* and 1*s.* and it was enquired, who would think of giving a poor defenceless woman a draft on the Bank for such a trifle, scarcely worth the paper on which it was written. If the noble lord had extracted money from the Bank only for such frivolous payments, the deficiencies in the balances would not have approached half a million of money; and the iron chest, or even Messrs. Coutts, might have been employed for any frivolous payments of this kind *bona fide:* it would be an exception within the statute, and his lordship would have heard nothing of this accusation.

"Among the extravagant positions that had been maintained by his learned friend, one of the least decent and justifiable was, that the resolutions of the House of Commons were nothing. Be it so. The resolutions of the House of Commons are nothing upon the public expenditure for which it procures the supplies. Be it so. But our gracious sovereign, concurring with the House of Commons, took measures on his part consistently with the resolutions; an emolument was allowed in proportion to the rank of the persons holding their office, not in compensation for their labour, for labour they had none. Colonel Barré, who preceded Lord Melville, had an increase of salary. Subsequently in 1782, the royal intention of favour not being completely accomplished, a fresh grant was made to the noble defendant, whose salary was raised to 4,000*l.* a year. Why was this concession made? It was given in lieu of all emolument whatever; and from that moment to make a shilling interest of the public money was to abandon the condition of the agreement upon

which

which he accepted the office. He should be glad to listen to that man, who should be bold enough to say, that in such circumstances, no public duty was imposed upon Lord Melville. Could the king not grant an increase of salary, and prescribe the terms on which the augmentation was made? Was there any thing in this office so peculiar, that it restricted the authority of the sovereign of the state; that authority from which the office itself emanates, and to which it owes the continuation of its existence? Did they mean to say that there was no law upon the subject—nothing obligatory—no public duty enjoined on the office—no public right which can be maintained by a criminal proceeding? If this were to be correct, we must renounce the whole system of penal jurisprudence. That which was law for the noble defendant, thank God, was also for the meanest individual.

"It was a most absurd supposition, that Lord Melville stood in no relation to the king, but that in which a servant stood to his master. If such were the law, what was become of the authority of the case of Bainbridge. This also grew out of the proceedings of the Commissioners of Public Accounts. A noble lord who lately presided in Chancery, was one of the counsel, and also the noble lord who dictated the law in this august assembly. The defendant had the assistance of one of the ablest men known in the history of the profession, (Mr. Bearcroft) Bainbridge was accountant in the Pay-office. Mr. Powell, his predecessor, had made up his accounts, and died in 1784. The head of the family was then an infant, but now an ornament of this court. Mr. Bainbridge was to make up his accounts, of which Lord Holland was as ignorant as I am. Bainbridge had omitted to do this, and he thought it his interest to conceal it. Powell had had a prosecution commenced againt him, and he ceased to exist, pending its progress. Bainbridge lived to the conclusion of his trial, and it was decided against him. A motion in arrest of judgment, and a new trial were moved for, which was rejected by that illustrious judge, Lord Mansfield; and what he said on that occasion, comprizes all the principles applicable to this part of the subject. The ground for the new trial was, that the offence of Bainbridge at most, only amounted to a breach of

trust; that it was a mere question of civil right, and that there was no precedent of a criminal proceeding for the same offence. Lord Mansfield said, that if a man accept a place of trust and confidence, especially where attended with pecuniary trust, he is amenable to the king for the faithful discharge of the duties of it. There is a breach of trust between subject and subject, in which the party would only be liable to a civil action; but with the crown he is indictable. His lordship then adverted to a case as early as the time of Edward III."

The learned manager next desired the attention of their Lordships to the confession of the noble defendant in the House of Commons; not extorted from him in the course of any enquiry, but voluntarily tendered by him; and after comparing some of the prominent facts of the case particularly bearing on the statute of the 25th Geo. III. he concluded in the following manner:

"I beg your Lordships' pardon for having addressed you at such length, but I had to controvert positions, which, if not refuted, might have been attended with the most destructive consequences. I, and those with whom I act, have no pleasure in consigning to ignominy the noble defendant; but you have been addressed by his counsel in a way calculated to excite a weak and feminine compassion, wholly inconsistent with the duty your Lordship's have to discharge.

"No doubt, in private life, Lord Melville possesses virtue and honour, and the natural and generous affections of the human mind; but standing here, we represent the public, and we must boldly assert its demands before your Lordships. I am sure you will recollect, that the rights of the meanest subject are to be respected, and you will not permit the hand of justice to be impeded by the rank and dignity of the delinquent. Your Lordships will honourably fulfil the high trust reposed in you, and will not disappoint the expectations of the united kingdom in the solemn administration of its laws upon this important occasion."

MR. WHITBREAD.

"THE Commons having addressed your lordships to that part of the case which requires the true exposition of the law upon the subject, under the high authority of my honourable and learned friend, and he, having refuted the dangerous principles of his professional opponents, I am commanded in pursuance of the duty I have undertaken, to reply on the matters in evidence. But, my lords, how shall I do this after the confident manner in which you have been addressed during twelve hours? I should retire disappointed and discouraged if I had not, before this time of life, distinguished, that confidence of manner was not always the confidence of truth, and that the vigour of the constitution and the strength of the cause were sometimes perfectly distinct and separate from each other.

"I have not, my lords, that ability to which a modern orator has pretended, but which the Syracusan philosopher never affected to have attained. If Archimides had discovered on what fulcrum to have reposed that vast engine by which he might have destroyed the whole system of the physical world, he would not have used it; nor my lords, were I endowed with the same power to hurl into chaos the moral world, would I employ it. I would not confound all truth, nor would I in the exercise of those feeble talents which I possess, attempt to pervert your minds from the course of justice on this memorable occasion.

"My lords, when I first cast my eye on the report of the Commissioners of Naval Enquiry, one of whom appeared before you, I was determined to examine what my country ought to do, under such an alarming exposition of facts. My anxiety encreased even in proportion to my success, but whatever I may have felt at any earlier period, it is nothing compared to my sensibility at this moment under the weight of duty I have to discharge. Among the circumstances that increase this painful sensation, is the refined sarcasm of the learned counsel, who sometimes instead of defending his noble client against

the charges, found it more convenient to institute new charges against me, and to smile at the variety of business I have undertaken in different characters. If I have not only hewn the stone, but laid the foundation—if I am deputed to put the key-stone to the arch when I have thus prepared the materials, your lordships will not suppose me to be culpable, if, in addition to my former labours, I also fulfil this duty. But let not the learned counsel flatter himself that he has succeeded in distracting my attention from the subjects to which I have to reply. The stores of his classical mind may have furnished him with examples, when the race is not to the swift, and where by lures and artifices the natural powers have been diverted or misapplied. In the early tales of infancy some golden dreams have amused my imagination, and I have heard of a mountain, at the summit of which a great treasure was to be obtained that many had undertaken to acquire; but so many obstacles had been successively presented to them, that their hopes were disappointed. If they waited to listen or to indulge themselves with the view of the fleeting objects, they were turned into stone; they were to be alarmed by no threats, fatigued under no trials, and to pursue their object straight onward until they had accomplished the purposes of their noble ambition. I shall endeavour to encourage this disposition—I shall aspire with the same ardour, and shall not be diverted from my course by the artifices employed to seduce me. The time will come, when I shall be able to satisfy the public, that the characters in which I have appeared, which have excited so much pleasantry in the learned, are none of them incompatible, while I conduct myself with propriety as a manager, and with honour as a man. My lords, there are no duties which an upright heart may not fulfil.

"I have not, my lords, been insensible under the mirth I have afforded, but as there are pains to which the human body is subject, which the most delicate of the race can endure under the expectation of the promised blessing, so I, under the lash of the wit of the learned counsel, have anticipated a glorious reward in the service I have rendered to my country.

"My lords, you have by this time discovered that I was

not at all mistaken, when I informed you of the talents that were opposed to me. Of these powers they have given an indisputable proof, and they have acted like able and honest men. We have had every thing that ingenuity could supply, but unfortunately for their noble client, we have had nothing to which it could be advantageously directed.

"It is a wise maxim in policy, that when a man is arraigned for a crime, he should not undertake his own defence. How truly has this been exemplified at the present trial. Lord Melville has had the benefit of the powers of eloquence, but of this his lordship would have had the assistance if he had personally undertaken that defence; for the exercise of these I have witnessed ten thousand times. But in that case the parts could not have been so dexterously managed, the mode in which it was conducted must necessarily have been changed, and for the form of it we are told, that the learned counsel, and not their client, are responsible. The noble lord found it much more prudent to trust his defence to those whose passions were not violently agitated, and whose consciences did not interfere with the assertions they were to support. Yet, under the inconsistencies to which gentlemen in such situations are exposed, there is danger in permitting more than one to open his mouth, and there is still greater danger when, under these circumstances, a defendant undertakes a part of this difficult duty. Perhaps it would be difficult for any man less ingenious than the learned counsel, to vindicate all the dexterous artifices which have been resorted to in the defence. From one of these gentlemen we have had a most able speech of eight solid hours (to borrow one of his own phrases). During all this time he endeavours to evade, mislead, and misrepresent, and to express his utter astonishment at a thousand things of which his learned co-adjutor made a free concession in the next four solid hours; but between the surprise and contradiction of the one, and the more accommodating disposition of the other, I trust it will appear that our case is unshaken, and that Lord Melville is guilty. I will not follow the learned counsel, by stating what has happened unconnected with these charges; but I may take a review of the principles not only affecting

the character of this prosecution—not only affecting the noble individual who is the object, but the criminal jurisprudence of this country, which we have been so long told reposes on a sure rock of foundation.

" The learned counsel has talked of cruelty and vexation, and of various sources of calamity; which are no matter of consideration before your lordships, and if they were, I would refute every syllable that has been uttered on the subject. Lord Melville is upon his trial—he is brought before you by the Commons of the united kingdom of Great-Britain, by a body jealous of their privileges, jealous of every thing that should interfere with their prescriptive rights.

" If we view the political history of this country, we see that the mode of trial by impeachment has been employed on various occasions—that sometimes it has been relinquished, at others, by long delay, it has been brought into disrepute. We desire, my lords, to vindicate its character. It has been said before that public, by whom I am at this moment surrounded, that the intention of this prosecution was to expose the noble defendant to an enormous expence. This I deny, and I feel great satisfaction in saying, that the Commons have maintained their dignity. I am happy to think, that, in the court before which I speak, is concentered all the powerful learning of the law, and that all the legal knowledge of his counsel has been employed for Lord Melville. I am also glad, that in favour of the defendant, are all the mildness and generosity of the heart, all the gentle feelings of humanity, and that against the prosecutors is presented that sternness with which it is natural to listen to accusers; and I glory in the reflection, that if a model of an impeachment were wanting to the country, there is one now afforded which will do justice to the dignity and honour of the state. But I wish I could say, that the counsel for the noble defendant had treated the managers with that propriety which left no imputation upon them. When insinuations are thrown out, assisted by the arts of cadence and gesticulation—when intimations are given, as if papers material to the cause had been meanly obtained or fraudulently withheld;

held; if, in these circumstances, the managers do not feel mortification, it is because they do not deserve blame.

"My lords, you have heard some complaints respecting the disadvantages the noble defendant suffered under the mode of trial now adopted. If they are such, they are at least of his own seeking. Lord Melville was to have been prosecuted in a court of law, where we are told he might challenge his jury, and the late attorney-general was directed to draw up the charge. This mode was changed by the interposition of a powerful friend, who recommended that he should be impeached, asserting, at the same time, that he was guilty of no crime. Thus, by his own interference, through the medium of his friend, the method of trial was varied.

"The learned counsel, sensible of the weakness of his case, has endeavoured to mislead you from the topics of enquiry to something unconnected with the cause, and with this view, during the cross-examination of the witnesses they have endeavoured to impress your lordships' minds with the great services Lord Melville has rendered to the empire. We were told of his high offices as secretary of state of the war department, as president of the board of controul, of his posts of honour in Scotland, and of the fidelity and activity with which he discharged this complicated duty. My lords, we accuse him of nothing venal and corrupt with respect to these stations of public responsibility, we charge him only as Treasurer of the Navy, and this charge we have supported. The learned counsel knew his plan, and it was well concerted: he thought such a representation might have an unfavourable effect upon the managers, and prejudice the court against particular individuals, who had taken a decided part against the noble lord's administration. But, I can assure the learned counsel, that by such expedients, I shall not be forced into political controversy—I shall neither shew the impolicy of the noblelord, nor pronounce the eulogium of his opponents; he comes here as a man, not as a statesman, to answer for the derilection of his public duties in one particular office. We have been told, with great ostentation of the sums the defendant has resigned at an early period with minuteness, but they say, we cannot with propriety call for accounts twenty-four years

years ago—whence then this affectation of ignorance from distance of time? Then, they say, we exhibit all his accounts, every guinea to the last farthing which has been acquired by the noble lord. True, it is, we did put in a paper, the result of calculation upon particular profits, and so successfully were they fixed upon him that he could not get rid of them, although they constitute a very small part of our charge. They produced Mr. Pollock and and some others, and then they confidently ask, 'How can you be so ungenerous to the public, so unfeeling to the individual, as to prosecute this great and excellent man? You charge him with the misapplication of a limited amount, and we shew you that his bounty has resigned much more to the coffers of the state.' But, supposing, my lords, that he had given up a much larger part of his salaries, would that prevent your lordships from pronouncing him guilty; such an allegation will repel what the Commons have proved in support of the articles they have adduced. After the sort of testimony to which the learned counsel have resorted, it would be competent to the Commons to shew, that in the resignation of salary which has been so ostentatiously displayed, there was in fact no relinquishment of any thing he was able to retain; or, more accurately, of what he was not able to acquire, for he could not retain what he never acquired. There is an indisputed fact upon the journals on this subject, and by the arrangement made, no servant of the public can receive more than 6000l. a year, so that the salaries of 4000l., 2000l, 1,500l., and 6000l. pretended to be due to the Right Honourable Henry Dundas, were in fact, not due, and he could receive no more than 6000l. a year. But to whom did he surrender with all this liberality the surplus. We are told, indeed, that it went to that public, whose monies he had employed for his own emolument. This, like the rest, is an egregious mistake, not a shilling of it went to the public, the whole was reserved on the civil list. But, my lords, it may be enquired, why he did not take this salary of 6000l. a year, and not be treasurer of the navy, secretary to the war department, or president of the board of controul? Was he a man of so much importance, that nobody but himself could be found so proper to fill these high situations—was

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he so active and energetic that none but himself could discharge these laborious duties? Are we, my Lords, so ignorant of human nature, so little skilled in political interest, so little acquainted with the dictates of ambition as to suppose, that if a Treasurer of the Navy had been wanted, no man could be found to accept 4,000l. a year for doing nothing? Lord Melville was not unapprised of the dignity and influence attached to the office. I charge him with knowing that 4,000l. a year was better as Treasurer of the Navy, than 6,000l. a year in some other situations, and this constitutes a presumption, and a very strong presumption in the case, and hence he said, "I will be Treasurer of the Navy still." The attachment to office, and to the advantages to which I have just referred connected with it, is shewn by the reluctance with which he retired from another station. It was neither thought decent nor legal under the other engagements into which he had entered to retain the office of Secretary of State, and he said, "I will go out immediately;" but this immediately comprised a term of ten years.

"Whatever solicitude I may feel, that no part of this comprehensive case, may escape my notice, or be left incomplete in the minds of your Lordships; yet in this last stage of the prosecution, I think it less necessary to bring the whole before you than to compress it into a narrow compass, so that a great variety of argument, on minor subjects, rather addressed to your feelings than your judgment, I shall pass over unnoticed.

"Your Lordships were told that the noble defendant had no turn for figures, he was represented to you as incapable of determining that two and two made four, and as to money matters he had no idea of them. Such is the sort of comment in the evidence which the learned counsel have made; and if no person had been required to follow them, and if this had not been the tribunal before which the noble defendant was tried, some effect might have been produced. But what appears upon the evidence? On his first introduction into office his attention was directed to the augmentation of his salary and that it should be more effectually secured than that which was paid to Colonel Barré. But to refute such a posi-

a position, such a degradation of the noble Lord's powers, such a libel on his character and talents, we need only look to the India accounts which were periodically presented by his Lordship to the House of Commons: the prodigious complication of those accounts rendered them dark and inscrutable even to men clear and luminous in their conception, until his Lordship placed them in a point of view so distinct and methodical, that he seemed to have devoted his whole life to arithmetical computation. Then the learned counsel say in the face of all this glaring contradiction, that if he had a taste for this study he would not have had the ability to make the acquirements. My Lords I should not really have adverted to this, but the over-statement of these gentlemen is so extravagant that we cannot easily pass it over unnoticed.

" My Lords we have shewn by the powerful organ of the law the Commons have employed this day, what is the true construction of the statute; still there were reasons why a different language should be resorted to by the learned counsel for the defendant, because the balances which have been proved to be outstanding ought under a correct view of the statute to have been paid in, and they were not paid in, the intention therefore was to rebut if possible this charge of illegality on the conduct of the noble defendant. There was a remarkable inconsistency between the modesty with which one of the learned counsel, so frequently appealed to your Lordships' sensibility, and the confidence with which he opened his address. " If" (said he, with all the force of emphasis, and with all the solemnity of gesture) " you can fix one single mark of corruption upon the noble defendant which we cannot remove, I give up the case and Lord Melville is guilty." Observe the sequel to this lofty declaration; He admitted that we had proved one fact, exhibiting that corruption, that stain, which he could not wipe away; but he adds, that after twenty-four years the evidence was brought, and that from distance of time only it was not controverted. My Lords, of this single act, at least, we have proof which the learned counsel has not attempted to resist; the inference is obvious; and Lord Melville is guilty on the admission

mission of his own legal advisers: but where is the consistency of all this? We do not find on other occasions the same defect of memory. His Lordship can look back many years and speak upon his oath. Under the sacred pledge he avowed that he had no difficulty in declaring that when Mr. Douglas was pay-master he received no advantage whatever from the public monies; yet this particular period of twenty-four years embarrasses his mind, and why? Because we have proved the fact as clearly, as if twenty-four days had not transpired since the event.

"Then my Lords, they lament over the melancholy occurrence of the death of this witness, and with somewhat less appearance of decency they occasionally express their grief and mortification, on account of the destruction of those papers, which were destroyed under an authority given in the release for that express purpose signed by the noble defendant himself. I wish my Lords, that Mr. Douglas were alive, if it were only for the purpose of reading and authenticating his own manuscripts; I rather think he would have been a most unwelcome visitor, and that the learned counsel themselves would have been as dumb as Mr. Trotter was on some former occasions. Considering the connection which has been discovered, and the broad facts which have been exposed, perhaps the expressions of sorrow most singular and least expected were those which the learned counsel employed when speaking of Mr. Trotter's unhappy taciturnity.

"The death of Mr. Douglas was the act of nature, the destruction of the papers was the act of Lord Melville and Mr. Trotter, the dumbness of Mr. Trotter was his own act, because he was an accomplice. What was the reflection of Lord Melville, when he applied to appear before the House of Commons on his own vindication, "I know," (said he) "that Douglas is dead, that the papers are gone, that Trotter is silent, and I shall not be detected." But unfortunately for his Lordship, industry will do wonders; it will sometimes frustrate the best connected schemes, and disappoint the most reasonable expectations. The secret is out. We wished, we toiled, we omitted no one thing to support

the charges we have exhibited, we endeavoured that the House of Commons should not be disgraced when it reluctantly appeared in the painful character of an accuser. While we were engaged in this important duty, to justify the commons of the kingdom, the learned counsel has thought fit to amuse himself with our assiduity, and in order to throw an odium upon the prosecution, he has told you of our looking here and there, of our hunting over private papers, and ransacking the garrets of widows and orphans. Where were these private papers to be sought, but in the hands of the executors of Mr. Douglas? If a great public officer have misused the monies entrusted to his care, how is his delinquency to be discovered, how to be exposed more successively, and incontrovertibly? I think we may venture to leave it even to the candor of the learned counsel, if we have made an idle and ostentatious display of domestic secrets and private embarrasment.

"There was another subject touched upon by the learned counsel, the arguments of which were a little shaken by the honorable and learned manager, who has so lately addressed your Lordships. It was said that Lord Melville was in the habit of using hasty expressions, that for the support of this prosecution, the ebulition of the moment was minuted down as the result of deliberate thought, and even his silence was interpreted into a crime. Then we had a philippic on the glorious freedom of speech contrasted with the liberty of silence equally desirable and glorious.

"Notwithstanding all the mystery which had been resorted to for the purposes of this defence, we were boldly informed by the learned counsel that Lord Melville had courted enquiry. To draw a comparison between the thick veil thrown over all the transactions, and that manly exposure to which the learned counsel alluded is not very material to the subject, although I have certainly formed an opinion upon it, yet I shall say nothing regarding it. It is true, the time was when his Lordship of his own accord, of his own pure motion in a letter to the speaker of the House of Commons requested to be heard in his defence. My Lords, it was not an individual member speaking there upon a parti-

particular

cular question. He came there not to legislate, but to speak in the defence of his own integrity and honor. And here your Lordships have seen another vexatious expedient of the learned counsel. Was it right for him during my cross-examination, to interrogate me on the matter in my speech in the House of Commons in answer to the noble Lord. The learned counsel repeated it, he had it written before him and selected particular passages. My Lords, if it were in my power, and if it were to the purpose I would repeat the whole that passed from my lips, for I am ashamed of nothing I have uttered. These things are in themselves little incidents, but they in no degree tend to soften the asperity of dissertation; they have no relation to the subject, and they might as well talk of murder, fire, or any thing else to alarm the feelings instead of the charges under consideration.

"There is another mode of defence which approaches somewhat nearer to the subject, but which in no degree countervails the strong matters in proof; yet it is accompanied with a sort of insinuating manner—it is addressed as an appeal to your Lordships by which you may suppose that more is meant than is expressed. 'What, (say they) when the noble defendant had so much in his power, when one hundred and twenty millions of money were progressively under his controul, after examining all his accounts and investigating every public and private document to which you can procure access, does all that you can discover amount to this, that he condescended to pick up shillings in an account with his Banker, and stooped to such low, mean, groveling thievery?' All that we say in answer to this is, that we prove it. We stand upon the ground of the evidence of what we assert, we neither enter into the moral or religious impressions of his lordship, we merely state the fact, supported by indisputable testimony and we leave him to answer a question from the highest authority: 'What should a man give in exchange for his soul?'

"The learned counsel thought fit to make a very free commentary on the summing up of the evidence on the part of the Commons, which was executed with so much correctness of judgment and felicity of style, by an honorable

rable manager (Sir Samuel Romilly). What could no be resisted was perverted, and their Lordships were told that the case, with all its ample ramifications, were reduced to two or three points, which were capable of receiving a distinct and satisfactory answer. Whether such distinct and satisfactory answer had been given, their Lordships were perfectly competent to judge: it is true that the honorable and learned manager did endeavour to disencumber the facts of all needless contingencies, and to place the whole subject, extensive as it appears on the evidence, in a shape that would render it familiar and intelligible to the common understanding of mankind. With this view the minuteness of detail was properly disregarded; preliminary and auxiliary proof met with little observation, but the main questions were placed in a most luminous point of view, which cannot be obscured by the veil thrown over it by the learned gentleman. But, my Lords, if any omissions have been made by us in the conduct, they will be abundantly supplied by the diligent attention your Lordships have constantly paid, through the whole course of this important enquiry. I thank the learned counsel for reminding me of what was said on the occasion to which I have just alluded, when the evidence on the part of the Commons had terminated. The honorable and learned manager had told your Lordships, that the judgment you must pronounce in the faithful discharge of your duty was obvious if the evidence that had been adduced had been uncontradicted; and, in the candour of his mind, he added, that every man familiar with cases of this nature was apprized that a case made out apparently incontrovertibly on the part of the prosecutor, was sometimes completely negatived and destroyed by the defence. My Lords, the learned counsel have had the evidence before them, and they have been afforded the best opportunity of giving that distinct and satisfactory answer which they ventured to anticipate. What is the result? The testimony remains unshaken and uncontradicted, and I must repeat in the language of the honorable and learned manager, that 'the judgment your Lordships have to pronounce in the faithful discharge of your duty is obvious.'

"The

"The learned counsel nearest me (Mr. Plomer) next proceeded to criticize upon what his profession enables him to speak to with peculiar ability, and your lordships were informed, that our articles exhibiting the charges against the noble defendant were not drawn up with the technical precision which was fit and decorous on such a solemn occasion. The learned counsel must permit me to assert, with some confidence, what I have learnt in the sphere of my public duty, and to declare, in the name of those for whom I now appear, that the Commons of Britain, in the proceedings under any impeachment, are not restricted to the forms of a legal indictment, and that they have a right to draw up these articles more generally and comprehensively. They have not only a right to do it from ancient and established precedent, but it is their duty to do it, that the public delinquent may not escape punishment.

"The learned counsel, who had once been an able assistant and manager for the House of Commons, with a late distinguished member (Mr. Burke), among other parliamentary authorities, acted as his coadjutor in that public duty. Your lordships know, that Mr. Burke drew up one of the most able reports that ever appeared on the journals of the Commons, and to that report, which states not only what those proceedings were, but what they ought to be, consistently with the dignity of that house, I will refer the learned counsel. The usage of parliament, says a great legal authority, which has been already quoted (Cowper), is the spirit of the law of the land, and whatever trammels may be necessary in the inferior courts, we insist that the articles we have prepared are according to the forms, and consonant with the privileges of the High Court of Parliament. The memory of the learned counsel may assist him in recollecting another occasion when a question arose on this very subject, and the venerable judges, to whose *dicta* the learned counsel is accustomed to listen with so much respect, said, 'The impeachment, in point of time and form, is according to the usage of impeachments in parliament.'

"Some advantage has been taken even of the privileges

leges of the House of Commons in these circumstances, and it has been urged before your lordships, that the House of Commons not being governed by the same rules of evidence which prevail in the courts below, the noble defendant has not the same protection which he would receive were he prosecuted under the ordinary forms of law. My lords, the Commons have thought it their duty so far to assert their rights as to declare, that they are not restricted by the same rules which, for the safety of the subject, are uniformly adopted in the common course of the criminal jurisprudence of the country. But I beg your lordships distinctly to undersand, that this right which they most explicitly claim, they have not on this occasion exercised; and although the noble defendant would have had no reason to complain if their just immunities had controuled the customary forms of proceeding under the penal code, yet, in the progress of this prosecution, every part of the proof has been conducted with the same strictness and severity in favour of the accused as is required in the courts below.

"I must not neglect to observe upon what the learned counsel has objected to in the progress of our evidence. At every step we took he made a stand, but, at last, finding his opposition almost in every instance unsuccessful, he prudently declined to persevere. If I had noted down all that the learned counsel had said was not evidence, I should have had a very cumbrous volume of substantial and valid evidence resulting from this trial. It was singular to notice the various sources of anxiety which seemed to agitate the breast of the learned counsel at different periods of his address. Sometimes he took in charge the character, the honour, and the dignity of the court, and he was extremely solicitous that nothing should transpire unfavourable to its reputation. Then the fame of the House of Commons was nearest his heart, and he hoped nothing would pass which would at all reflect on its purity and independence. At last, his feelings were awakened (where his sensibility was very properly directed) by the situation of his client, and there I hope and believe they remain at this moment.

"I pre-

" I presume, your lordships will concede to me that by the common law, the compact between the king and the public servant is so far binding that the latter is criminally responsible for any neglect; and I assert that it is so, on the authority of the learned and honourable manager who so lately delivered his opinion on this subject. But we shall see if the compact were not more obligatory upon Lord Melville than upon any other man. He said to the public, you shall perform your contract to the last farthing. I say to him, he shall do so. Even speaking of civil rights, if we were to employ figures to ascertain the demand the country has upon him, I declare, there would be a great surplus against him. The resolutions of the House of Commons have been stated prefatory to the articles of the charge, and the learned counsel says, that there is another, which would put the matter in a different point of view, and which is not stated. No doubt, after the resolutions were passed, Lord Melville was bound in honour to do nothing in opposition to them. And what was the second resolution which was read by the learned counsel? The Commons say, that they will make laws for the regulation of the office of the Treasurer of the Navy: what does Lord Melville do in the interval, knowing this decision of parliament to be thus solemnly expressed? He says, I will in the mean time act without controul, and avail myself of my liberty until the resolution shall pass into a law. Was the Common's House *indoctum?* If lawyers were necessary, had they no lawyers within its walls to express its meaning? The fact in evidence is, that he did really apply paltry sums to his own use, and that he did this in the first instance, by driblets which he afterwards ventured to perform with a bolder hand. The learned counsel exercised much pleasantry on these small insignificant amounts which took their course from the Exchequer into the account of his lordship; and he said, he took this sort of amusing way from me, who am not much gifted with a talent of that kind. He reminded me of a certain guinea, and I wish that guinea had got into the possession of the learned counsel who, by ingenuity, obtained a verdict contrary to evidence and fact. This guinea, my lords, travelled into the pocket of a statesman who knew

knew its merits, but would not appreciate it above its value. It was present at the interview between the illustrious Chatham and the gallant Wolfe, just before he left this country on that expedition to which his life was forfeited. I wish, my lords, that guinea had been a witness to these transactions: if it had gone to the Treasurer of the Navy, what would have been the gratifying reflections it would have indulged. I am destined to relieve the comfortless widow, or deserted orphan, or I am hastening to the ports of the kingdom to reward the brave sailor who has fought the battles of his country. But what was my surprise, when I was taken to the chest of the banker, and from thence dismissed to pay some paltry bill? what was my indignation, when I was paid off with ten thousand companions on a secret service, which personal convenience would not reveal, or at last, having become scarce, I was reserved for the day of trial, and then conveyed into the pockets of his lordship's legal advisers.

"But, my lords, to proceed with the evidence. We have traced the naval money into the hands of Lord Melville: 1st, By the evidence of living witnesses, we have shown, that certain sums were taken from the Exchequer, and the place to which they were conveyed. We have given testimony to three distinct sums intercepted from three Exchequer payments, the one of 45,000l., another of 50,000l., and a third of 93,000l. With respect to all these, we have not proved whither they did go. We have shown that they did not go to the proper place. That they did not enter the pay-office we know from the receipts of Mr. Douglas. With respect to part at least, we have proved, that on a certain day, a bank note was taken at the Exchequer by the Paymaster, who, instead of delivering it to the proper office, carried it to Messrs. Drummonds, or gave it to Mr. Dundas, or some other person to pay it into the noble defendant's account at the shop of those bankers.

"When the learned counsel say, seeing the proof to be irresistible, 'What have you acquired by this? A paltry bank note. As if the noble defendant were some insolvent debtor.' I thank them for this, and I call upon them, and upon any of your lordships, and the learned judges

judges around you to declare, if a more strict proof be required in a case of forgery than that which has been brought home to the defendant.

"The learned counsel say, that the life of Lord Melville is nothing in his own estimation compared to his fame. So it is, I acknowledge, with every virtuous and honourable mind; but so it is not with a man who will condescend to the meanness of peculation. I call upon your lordships to ask your own feelings, if they would not have been more acute, were the noble defendant under trial for his life. The greatest penalty a man can pay is his life. What is the punishment of forgery? Death.

"Are men to be tried, my lords, in this happy country by equal laws, and will you condemn a miserable pauper for the forgery of a one pound note? If I show that Lord Melville has peculated to the extent of a thousand of these, shall he not be subjected to the same laws? If this were the only offence distinctly proved against his lordship it may not be the only crime perpetrated. When the unhappy wretch who has forged to the amount of a dinner is brought before you, why is he executed? Not because he has defrauded the individual or the public of 1l., but because you suppose him to have forged to the extent of 10,000l., and he has become a dangerous member of society. Apply this to the noble lord.

"But this is not the only act that should subject him to penal consequences; we have proved many others: but the learned counsel are dissatisfied with our proof. I do not wonder that they are dissatisfied with it, but I should be surprised if they discredited it, when we produce the hand writing, and the witness who swears to his own hand writing, we think we have gone a great way to substantiate our evidence. But the learned counsel are not content, and they ask the witness, 'Have you any recollection of the business?' However respectable the talents of men may be, however retentive their memories, in transactions of this kind, they must confide in their writing of their own entry. I should think, that the experience of the learned counsel, even in their own profession, would show the impossibility of bringing to their minds a distinct image of the affair at such a d

tance of time. It is not long since, a late noble and learned chief justice (Lord Alvanly) was trying a cause; during its progress, he insisted positively that he had not given an opinion on a certain subject contrary to that he was then delivering. Such is the imperfection of human memory, that his own signature was attached to the opinion so given. The book containing it was presented to him. At first, in the confidence of his own accuracy, he declined to inspect it, but at last, being modestly entreated, he was over-persuaded, and he exclaimed, on examining the entry, 'There it is as true as God's in Gloucester.' Lord Mansfield was the great luminary of legal science; before he delivered an opinion, he reasoned upon it to the utmost stretch of his capacious abilities. To him an instance occurred of the same kind as that I have just explained, with respect to the other nobleman. This signature was shown to him, and the opinion of William Murray, attorney general, was diametrically opposite to that of William Earl of Mansfield, Lord Chief Justice of the Court of King's Bench.

"I admit that the learned counsel has taken none but fair advantages, but I assert, that he has taken all that were fair. Passing over then minute objections to the mode in which the recollection is pressed, and the confusion into which one of the witnesses was thrown, with respect to the figure 7 and 6, by the kind assistance of the learned counsel, I call upon your lordships to recollect, that this is not the only 1000l. Bank note which we have proved. There was another that went directly from the Exchequer to Messrs. Moffats, to pay a bill, drawn from Edinburgh, for account of Lord Melville. Then the learned counsel say broadly, for want of testimony to rebut this, that the thing is impossible. My lords, I remember a gentleman, who was an indifferent whist-player, answered this sort of argument for me by anticipation: He had a most excellent hand of cards, and a by-stander betted on his success: unfortunately he lost not only his own money but that of this spectator of the game, who, with some animation exclaimed, 'With such cards it was impossible to lose the game!' 'It may be so,' replied the other coldly, 'but I have lost it.'

"The learned counsel seemed to be surprised, that, precisely

precisely what I stated in the opening was confirmed to the same extent by the witnesses. To persons not acquainted with the habits of lawyers, such a circumstance would excite no astonishment. My intention was, not to overstate any thing; but to prepare your lordships' minds fairly for the proofs I had to adduce, and to stretch no inferences beyond what they would justify. An eminent person, in giving an answer to a case, always made it a principle to forget the strong parts of it; as I am adverting to the habits of lawyers, I think it right to observe, that the learned counsel, on the present occasion, have closely imitated his example.

" I said, we should prove, not only that Lord Melville had taken to his own account the monies to which I have just spoken, but that on the 25th of May, 1785, a certain draft was drawn by A. Douglas, payable to George Swaffield, which never came into the hands of that person, but was passed to the same account with the former amounts. This person was a witness, and although above eighty years old, he is in the full possession of his faculties, and he has told your lordships, he had not the money. My lords, a sum to the amount of 2000l., was negociated in this way. We show your lordships, that the 2000l. was paid in Bank notes of 1000l. each. We prove that such Bank notes were paid at the time into Lord Melville's account at Messrs. Drummonds, by Mr. Douglas. There is but one thing wanting to complete the proof, and the cause of that deficiency we satisfactorily explain. What do we further present before your lordships? We have given it in evidence, that it was of importance to Lord Melville to make up his account, he being at that time overdrawn, and by this expedient he relieved his account of a charge of interest.

" Have you not then proofs as complete as the nature of the case can possibly admit? It might have been said, that these sums were paid for the salary of his lordship; but, in the present case, that would be no answer, for the salary had been paid up to a small fraction; and had it not been so paid up, the course of office was for bills to be paid to the Treasurer in discharge of his salary.

" One misrepresentation had been made, and it was this. It had been said, that Mr. Douglas was the pri-

vate agent of Lord Melville, but it was now in proof, that he only acted as Paymaster. Then there was another misrepresentation which had pervaded the whole of the argument of the leading counsel for the noble defendant, and was subsequently adopted by his learned friend who assisted him. He said, there was no limit, that the Treasurer might draw upon the Exchequer without restriction before passing the act; that he had only to go to the Treasury, specify the heads of service, and get the money at his pleasure. After this, they contend, that he might put the money into the hands of Messrs. Drummonds, or any one else, and there let it fructify, for his own profit.

"The presumption at least from the course of office, on which the learned gentlemen have so much insisted, is strongly against their position. The Bank was the place of deposit when Lord Melville came into office; it was so up to the time when Mr. Trotter undertook the Paymastership; and it was never removed from thence under the authority of Lord Melville, but for corrupt, or unexplained purposes.

"Having stated these matters, and supported them by evidence not deficient a hair's breadth, and having proved the former with only the small point of deficiency under the circumstances explained, we shall next proceed to show, that we have given testimony by the balances at the Bank, that certain sums were not there, which, according to the ordinary course of business, would have been there, if they were not in the pocket of the Treasurer or his agents, or at interest somewhere for his advantage.

"I said, I should show to your lordships most accurately by these balances, that all our statements were confirmed by official document. We have proved it, they are so. We state certain deficiencies or differences, if the learned counsel so please, for I will not quarrel about names; but I would say, as was before observed in the time of Philip, when the term traitors was used, I like to call things by their names.

"We have shown a difference, (for so I will call it in condescension to their wishes,) of 13,000l. when Lord Melville went out of office; and this difference was increased

creased in the first month of his retirement to 23,000l. We have not been able to prove in what way progressively this balance was increased, but we have given evidence to the actual increase; and not only to the fact of the diminution, but to the mode of it; and we have farther shown, that the money went into the hands of private persons. It was said, that the 10,000l. had gone to Messrs. Muir and Atkinson."

Mr. Adam rose to controvert this observation.

(Mr. Whitbread interposing, resumed) "I am about to correct myself. The foundation of that statement arose in the cross-examination with which Callendar was pursued, and it was said, that if Messrs. Muir and Atkinson were a house of credit, the noble defendant had a right to put the money there. I listened to the learned counsel with great attention, yet I have no doubt he is just in his present objection. But to proceed. We have proved then, that there was an increase in the deficiency to this extent, and we have shown two payments to the amount of 15,400l., and 1000l., and another 1000l. from Messrs. Muir and Atkinson, or paid from their account. If the learned counsel had had any means of repelling this, he might have examined Mr. Robert Dundas to it, and he knows very well, that the books of Messrs. Muir and Atkinson are in existence, and that he might have procured them if they would have served his purpose. Why did he not, upon the cross-examination, try to disprove the facts? Yet, if Lord Melville had received no interest from the house, he might easily have obtained an advantage in another way, equally if not more beneficial. Is it no advantage to assist a house in extensive credit? Might not the noble defendant reasonably expect a return for this pecuniary assistance? Posts of honour and profit are no inheritance, at least not in the present case, and the man who is liable to be thrown out of power, and wanting ready cash to make up his accounts, may find the aid of such a house of no small consequence to his credit and reputation.

"But the learned counsel says, that there is a material distinction, between claims of this kind on a Treasurer, and on an Ex-Treasurer. Surely, it will not be seriously intended, that when a man enters into compact for a certain

tain duty of this kind, the moment he ceases to be Treasurer, he may abandon his compact, although he retain the balances which came into his hands under it. Then they raise a difficulty, and say, where are they to place it? Don't be uneasy about this, put it into the Bank; that is the safe and proper depository. Again, they complain, that the Bank will make use of it. Are not the Governor and Company of this institution a chartered body? Have they not a public depository, and have they not a right to the advantages incident to it? The Bank may do this, because it is sanctioned by Parliament: Lord Melville may not, because he has no such authority.

" Lord Melville has himself relieved us of some impediments which might have presented themselves in the course of our proof; for it is no longer uncertain, whether he took the money, for he has himself repaid it. This applies to the 9000l. out of the 10,000l. which he took out of the account of one Treasurership, in order to discharge the claims of another.

" I have said, that the demand on him was increased to 23,000l.; in April following it was reduced to 7,600l.; and he returned into office a debtor for precisely this amount.

" Then for the operations which took place when his lordship was a second time Treasurer of the Navy; which we have improperly called a transfer; in fact, it was the act of drawing new drafts for the new Treasurership, in order to discharge the claim in the old; and this was on the 26th of May, 1785, and the whole debt was reduced to 1,600l., the amount being in the old account, at the death of Mr. Douglas 10,600l., a part of which we have proved to bave been employed corruptly for the private advantage of the noble defendant.

" There is one thing asserted by the learned counsel, not only without any evidence, but contrary to all the evidence in the case. They said, that he could not, if he were so disposed, have paid in the money. The officer from the Exchequer has proved, that money may be paid in by a public officer upon account, whenever given, and your lordships will distinctly recollect, that when I put the question a second time, with the view to impress this upon

upon your minds, for attempting to prove the same thing twice, by the same witness, I was very properly corrected by the court. It will also be remembered, that the learned counsel asked, with great apparent solicitude, if it were intended that this trial should 'last for ever,' by such repetitions of established facts? If this had been on the recollection of the learned counsel, he would have declined making the assertion of which I now complain.

"The learned counsel find some fault with the managers of the Commons for exhibiting a supplementary article against their client. The truth is, that they did feel themselves in some difficulty about it. We thought that we could have supplied all the matter in proof we required under the former articles; but we conceived that our duty to the Commons' House involved another duty to the defendant, and from the view of this double obligation, we presented this additional charge. But I am not surprised, that the learned counsel should quarrel with this article, because it enabled us to establish an evidence on broad grounds. If we had to proceed through narrow defiles, we should have been obstructed step by step, for which I would not blame the learned counsel, for when we had once arrived, it was all over with this case. We have now fixed, by whatever means is not material, this 10,600l. indisputably upon Lord Melville.

"But there is another matter of charge connected with this particular. Lord Melville acknowledged himself to be the possessor of a sum of this kind; he declared himself to be so on the 11th of June, 1805, and in the presence of the Commons of Great Britain, avowed, that he would not reveal its application from motives of public duty, private honour, and personal convenience.

"The learned counsel had taken a course in answer to this, which was the only one they could pursue; they have united, as it were, the reputation of Mr. Pitt with that of Lord Melville, and they have boldly asked, if a sum, not of 10,000l. but of 40,000l. had not been employed with the same secrecy by a minister, whose incorruptibility was unquestionable. Do you, they enquire, demand from Lord Melville what you would not have

sought

sought from his illustrious colleague? I say of Mr. Pitt what I would say of every other minister, that he had no right to declare, that he had used the public money, and would never reveal its application. Where was this declaration made? In the very sanctuary of liberty, which the learned counsel has so often named. Before the guardians of the public purse, and to no individual among these, would he unfold the mystery. He came with a magnanimous resolution to tell us, that he had applied the money, and he carried this affected magnanimity to an impeachable extent, when he announced that he would not disclose the secret; no, not to the public;—no, not to the Commons;—no, not to the Cabinet;—no, not to the King;—no, not to his own mind.

"Is it to be permitted for any man to say, that he has employed the public money, and that he will not reveal its application, and to assign motives unexplained of public duty, private honour, and personal convenience, for the concealment.

"If I were to trouble your lordships with the sentiments such a bold assertion would inspire, at any day, much more twenty-five years ago, you would understand the indignation which might be felt on this occasion. Such was the feeling with which it was heard on this recent occasion. Many of the Members of the Commons expressed it strongly, and I have proved the fact by a witness, who has not been contradicted. The fact we have established, and on this charge, you must convict the accused.

"But, my lords, after all this farce of mystery, what is the case? We have proved, that he did not disclose any secret, because, in truth, there was nothing to tell. There was no such sum as 10,000l. applied to any distinct public service. We have traced every item in the account with industry, and this conclusion is the result.

"My lords, there are many parts of this case which enjoin on me the performance of a very painful duty. Not because it is painful to me to declare what I do in the presence, and before the face of the noble lord, because whatever may be my sensibility towards him, from the consideration of what is due from me to my country,

I may be permitted to say, I never saw him with more pleasure than at the present moment. This fact then, my lords, is proved, it is true, as the learned counsel said, by a single witness, but the words were spoken in the presence of four hundred attentive auditors, who might have been called to contradict the testimony. My lords, it is proved by one of the managers of the House of Commons, and he was that manager who had conveyed a certain box to the Committee, and who had contributed so much to the amusement of the learned counsel.

" Then these gentlemen complain, that we have not fulfilled the intention we expressed of calling evidence in confirmation of this insulated proof. My lords, it is correct, it was our design to call farther evidence, and the person who was to depose to this fact, was one of the most dignified men in the kingdom; it was, my lords, the Speaker of the House of Commons. But when the cross-examination of the manager had proceeded some way, those who appear for the Commons did not chuse that such an eminent person should submit to this mode of interrogation: they were apprehensive, that the treatment their colleague had received would be resumed when that distinguished character should be called.

" Indeed, the reputation of no one seemed to be perfectly safe in the hands of the learned counsel; he had the talent of being extremely witty, and he well knew how to direct the shaft of ridicule. Perhaps he thought, when he employed this weapon, I was acting in a capacity of the duties of which I was ignorant, and that although I had taken much pains, they might terminate in disappointment if he could disarm me, by irritating my feelings. He said, I will take off the general, and he planted himself behind a pamphlet, and threw his darts without danger. His expectations are disappointed, my ardor is not cooled, my fire is not extinguished. I remember a story of a young officer, who told the Duke of Marlborough that he was on the point of rendering him a most important service, " I am taking off the commanding officer of the enemy." The Duke of Marlborough replied, " You could not do me more mischief." So, in this case, had the learned counsel succeeded in

rendering me powerless, other commanders would have risen far more capable of discharging my duties. This project would have been as illusive as that of the girl's, who killed the old woman's cock, that their morning's repose might not be interrupted. He was aware, that there was a reputation to be sacrificed; either mine, or that of his client; and, if he could destroy mine, he knew it would be a very essential service to the noble defendant.

"But what does the evidence amount to? This witness says, that Lord Melville took possession of a certain sum of public money, the application of which he would not reveal for motives explained. The same witness was examined as to a variety of other things, and he was pressed for a particular date of the 11th of June, and not only this, but upon his recollection of the balances. The learned counsel thus gets him into court, and not only expects him to repeat the balances, but also the speech of Lord Melville, and his memory is to record, if any passage in that speech were favourable to Lord Melville's character. My lords, I could easily remember the date, because the 11th of June is to be a day memorable in the æra of your lordships' honour, and of the justice of the country. But there are particular circumstances which lead me to the remembrance of this day, and of another, the 8th of April, which are, perhaps, the only dates to which I can speak with equal satisfaction. There are, my lords, in the history of every man, however obscure, certain *dies notandi*. Some, indeed, bring to the minds of the children the gallant exploits of their ancestors, others have their memory impressed, like myself, by more humble events. Now, my lords, the 11th of June is to me a *dies notandus*. On the 11th of June my father set up in business. On the 11th of June he annually balanced his accounts; and on the 11th of June his son was required to assist him in this laborious duty. On the 11th of June he knew the progressive increase of his substance, and the generous fruits of his honest industry. On the 11th of June my father died, and the day on which a good man dies is not to be forgotten.

"Then on the 8th of April, 1600, Lord Middlesex was

was impeached for nearly the same crimes which the noble defendant is now charged.

" As to the rest the witness has stated, in answer to the learned counsel, and to the mere averments of the learned counsel, that he believed Lord Melville said so, I did not say he had not said so, but I have proved he had not done what he represented. The fact is, that Lord Melville did make a positive declaration, and the object of his speech was, to exculpate himself by equivocal expressions."

The honourable manager concluded in the following manner:

" My lords, as long as your posterity shall represent this illustrious Court of Judicature; as long as the events of the country are transmitted to those descendants on the page of history; nay, even as long as the radiant orb of heaven expands his cheering beams over the earth, I trust, will the impeachment be carried down through revolving ages, and I glory in the reflection, that my humble name will appear in the same annals, not on account of my personal merits, but from the blaze of that refulgence by which I am surrounded.

" I believe, my lords, I have proceeded with some regularity through the whole of these articles. I am, indeed, most anxious to omit nothing; but, on a hasty review of what I have urged, and of such only my present situation admits, I am not aware that I have neglected any thing important to the subject. I am sorry to have reason to ask your indulgence to procrastinate the trial one additional day. Certainly, on my account, I do not seek it; in point of mental preparation, I am perfectly ready to enter on the sequel of the duty I have undertaken; and my physical strength is in no degree impaired by the present exertion; if I were to discontinue, there would occur no pause so proper as the present; and if I were to persevere to the conclusion, it would detain your lordships much beyond the usual time. Considering I have had to reply to speeches which have occupied twelve " solid hours" of your lordships valuable time, I do not think my request will be deemed unreasonable.

FIFTEENTH DAY.

SATURDAY, MAY 17TH.

THE court having been opened with the usual forms, Mr. Whitbread continued his reply to the following effect:

He said, "that he had already traced to the possession of the noble defendant one sum of 10,600*l.* which he had charged him with having applied corruptly to his own private purposes. He had also stated to their Lordships the circumstance of the two debts of 1,000*l.* each. The eighth article of Impeachment respected another sum of 10,000*l.* of which Lord Melville possessed himself in a manner, and under circumstances very similar to what he had already stated respecting the former sum. The learned Counsel who defended him, had laboured much to persuade their Lordships that those sums had been applied, not for his private advantage, but for the public service, in a manner like that in which the 40,000*l.* had been applied. The Commons however charged him with having applied those sums, not to any service by which the public might be benefited, but to his own private emolument. They charged him not only with an illegal, but with a corrupt application of the public money. Even if those sums were applied in the same manner as the 40,000*l.* the illegality of such application of it would be incontestible. If the application of that 40,000*l.* had not been illegal, there would have been no occasion to get a bill of indemnity to protect those who advised it. The circumstances however, respecting that sum, were fully explained previous to the granting the indemnity; but as to those sums, no explanation had been given, and the defendant was now too late for explanation, even if it were possible. The period of explanation was passed when he stood upon his defence, charged with a positive violation of the law. If any elucidation

cidation could have been given, it might have been brought forward at the time that the circumstances respecting the 40,000*l.* were explained. Then, if it had appeared that the money had been honestly applied for public service, an indemnity would have been granted to protect him from the consequences of violating the law. During the time that illustration could have been permitted and would have availed him, not a word had been said about the money being applied to public services; but now, when he stood upon his defence, his counsel had laboured by their suggestions to induce their Lordships to believe, that those sums might have been applied in such a manner as could be justified, if the circumstances were cleared up. Why were they not explained during all that time that was open to explanation? The reason was, that explanation which they had suggested was a mere, 'Sham'. Those sums had never been applied to public purposes, but it would be seen, that they had drawn others with them into the general vortex of corruption. There could not be a doubt, but that the public money had been exposed to hazard and risk of loss in those transactions, which were charged not only as illegal, but corrupt. How did it happen that it was only in Lord Melville's department, that such use was made of the balances? Did the Accountant General, or the Receiver General of the Land Tax suppose they might apply the public money in a similar manner? Or if they had supposed so, would not they have been immediately the objects of criminal prosecution? When the honorable manager considered the expressions used by Lord Melville in the House of Commons, with respect to this sum of 10,000*l.* he could not but consider it as a great aggravation of his lordship's offence, nor could he, when he was upon this part of the subject, pass over in silence the sneering observations made by one of his learned Counsel (Mr. Plomer) upon that 'Sanctuary of Liberty.' It was a sanctuary in which Liberty had *dwelt* in the worst of times, and in which she still loved to *reside*. There was nothing so sacred, or so revered among men, that might not, by certain tones of voice be turned for a moment into ridicule and contempt. The most admired passages in our most admired writers might be

read

read in such a manner as to disgust instead of pleasing. The high dignity and honors which their Lordships possessed, the stars and garters which were given as the reward of distinguished merit; the scarlet robes in which the Judges were apparelled; the emblems of Majesty itself; the crown, the sceptre, and the throne might all be ridiculed by contemptuous sneers; but when the 'Sanctuary of Liberty' was mentioned in such a manner, and with such tones, the Commons of the United Kingdom, should speak of the sacred residence of British Liberty, in terms more elevated. If any man, by his manner, and by the tone of his voice, could for a moment lessen the estimation it should bear, it became the duty of the managers, upon the present occasion to endeavour by a different manner, and different tones, to support and raise (if possible) the dignity of that asylum and 'Sanctuary of Liberty.' He should endeavour, as had been beautifully expressed by the poet Cowper, to whose namesake and relation we were also much indebted," —(Mr. Whitbread here alluded to Mr. Cowper, a near relation of the Poet's, Clerk to the House of Lords, present in Court) "to raise his voice to such a strain, as he thought becoming Britain:

> "And methought, while she liberty sang,
> "'Twas liberty only to hear."

In support of their charges, the honorable managers had been obliged to have recourse to the evidence of Trotter, as Trotter was the only human being who could reveal the truth of those secret and mysterious transactions. The evidence which Trotter had given before their Lordships, was certainly in some points different from what they expected, and his manner and demeanor were totally different from what had been represented on the part of the defendant. He was held up as a man of a weak mind, and whose memory was much impaired, and that therefore his testimony should not be much relied upon. It had appeared, however, upon the examination, that Mr. Trotter had given his evidence in a manner different from what might have been expected on either side. The honorable manager did not seek to discredit the testimony of Trotter, but he would by no means allow, that all the other testimony which the managers had brought forward,

forward, should be discredited on account of the evidence of Trotter. In the evidence, however, which he gave upon his cross-examination, Mr. Whitbread requested that their Lordships would bear in mind the manner in which, during the cross-examination, those things were suggested by the counsel for the defendant, that it would be convenient for him to say. He did not mean to infer, that the counsel were not entitled to this privilege when cross-examining the witnesses, the managers produced, but he submitted to their Lordships, that in considering the weight that was due to the testimony of any witness, not only the words and demeanor of the witness, but the words and demeanor of him who examined him should also be taken into consideration. The honorable manager knew that Mr. Trotter had been represented as a persecuted man, and that a report had been circulated, that after he had given his evidence before their Lordships he had undergone the most severe examinations before the managers. Although it was true that the House of Commons possessed large and ample powers, and that the Committee they appointed might have examined him and re-examined him, as often and at as great length as they pleased, yet the fact in the present case was, that Trotter was only summoned once for re-examination, and that when he came up he was so ill that he was not interrogated for more than two minutes. Whether the sickness was produced from any disinclination to give his evidence or any fear of the consequences, Mr. Whitbread could not say: he however recollected a recent case (alluding to the trial of General Picton) where the sudden pang and shrug of horror upon seeing the representation of a witness's former sufferings, was dwelt upon by a most able and eloquent counsel (Mr. Garrow) as a proof more strong than any words can convey of the truth of the story that unhappy female was about to relate. The sudden illness of Mr. Trotter might also be expressive; he seemed by his evidence before their Lordships to take upon his own shoulders the whole load of guilt. He had stepped forward, as the learned counsel had said, like Nisus to the succour of his unfortunate friend Euryalus. That episode was well known. The two friends had together proceeded to the camp of the Rutuli at the dead of night, and while the warriors were wearily reposing

posing on their arms had committed great slaughter. Euryalus was discovered by the spoil which he had taken, when his companion rushed impetuously forward to save him, or share his fate. He took the whole consequences of the act upon himself, and declared

> Me, me, adsum qui feci, in me convertite ferrum,
> Oh Rutuli——

"The quotation of the learned counsel was correct as far as it went; but why did he stop short? Why did he not add the words immediately subsequent, '*mea fraus omnis.*' They perhaps would not have sounded so well as applied to the present case. They wished, however, to shew to their Lordships that the guilt of their Euryalus was only his too great confidence and attachment to Mr. Trotter.

> Tantum infelicem nimium dilexit amicum.'

It was evident, indeed, that if there had been any strong personal feeling evinced by Mr. Trotter in his manner of giving his evidence, it was the wish to take upon himself all the fraud, and all the guilt which attended those transactions; and yet, Mr. Trotter might well complain of being reduced to the necessity of defending his friend at the expence of his own character; he might complain of those friends who would accept of such a defence."

The honourable manager now entered into some observations on the character of Mr. Trotter. He applied a few remarks to the construction of the act, as assisted by the context (*noscitur e sociis*) and compared the conduct of Lord Melville in the office of Treasurer of the Navy, with that of his successors. He then continued:

"The learned counsel had indeed great confidence in the popular topics they had introduced, if they supposed them sufficient entirely to shake the minds of their Lordships, and to gain an acquittal of the defendant, after so many proofs as we have adduced of his guilt. By the common rules of judging of innocence or guilt, what evidence was considered stronger than the destruction of those papers or documents which would throw the clearest light upon the transaction? Lord Melville, it seemed, was a negligent, careless man, and therefore it was proba-

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ble that he had destroyed those documents, which, if they existed, might have been produced. Mr. Trotter had not absolutely ventured to say that Lord Melville did burn those documents and accounts, he only said, he believed, but he did not know. If he had burned them, why did he burn them? If he had not burnt them, why did he not produce them? The presumption arising from this suppression or destruction of evidence, was of itself an evidence so strong, as to be almost conclusive in every case, both of civil suit and criminal prosecution. If the opposite party should destroy the title deeds of an estate, would they not be supposed, as against him, to contain that title which the honourable Managers alledged? And when they heard of those mutual releases and agreements, to destroy papers having been actually signed by the defendant, it was too much to say, that his Lordship's very signature was not to make against him, because, forsooth he was such a careless and negligent man, that he believed whatever Trotter chose to represent to him, and signed papers without knowing what they contained. They did not wish to try Lord Melville by any other rules of evidence than those by which other cases were governed; but he would ask, if it would be endured in any case before the ordinary court of justice, that a defence should be set up by a party accused, by saying he did not know what he was signing? He believed, when the noble defendant was secretary of state, that if a person were brought before him, whose signature to a treasonable paper was proved, Lord Melville would not have considered it as any defence for the accused person to say, 'I am a careless and negligent man, and I really did not know the contents or meaning of the paper I signed.' Such a defence, he would venture to say, could have no weight with the noble lord, or with any court of justice in the kingdom. There were other topics on which the learned counsel loved to dwell. They enquired, 'Can any charitable mind—can any honourable mind believe these inferences which the honourable managers have drawn?' Mr. Whitbread trusted his mind was as much alive to the general feeling of charity as the minds of the learned counsel; but he would say, that upon this occasion he had something else to attend to, and that a subject of no

less importance. Suggestions of compassion, charity, and mercy, were not merely to be listened to, it was the duty of every man to attend to the proofs. It had been in evidence, and that by the confession of Lord Melville himself, that Trotter was in the habit of violating the law, and making profit of the balances by his express concurrence and connivance. The fact was indisputable, and if the connivance were not from corrupt motives, it would be difficult indeed to assign a reason why Lord Melville should suffer himself to be so completely duped by Mr. Trotter. Lord Melville, in the first place, put the public money out of his own controul, and thereby exposed it, if not to loss, at least to hazard: in the next place, Mr. Trotter, to whom he had chosen to delegate his controul, also put it out of his power by placing it in the hands of private bankers, which was exposing it a second time to loss. To what risk it might have been further exposed after it had been handed over to private bankers, he would not pretend to state. But who was this man that is so easily persuaded that it was for the public benefit that the money of the office should be exposed to those hazards? Was it a man unacquainted with business, and completely ignorant of all money transactions? No; it was a man who had had more experience in business of that nature than almost any other. It was Lord Melville, the governor of India; the secretary of state; the man that could alone unravel the confused and complicated accounts of Sir Thomas Rumbold. Was this the man to be defended on the ground of his being ignorant in matters of business, and easily duped? And to what extent were their Lordships called upon to believe him duped? The counsel would persuade them that he really believed what was stated by Mr. Trotter, that it would be a great convenience to draw the money out of the Bank of England, and to lodge it in the hands of Messrs. Coutts. The honourable manager begged their lordships to consider what arguments Trotter could have used to persuade any man living that this was for the public convenience. Was it that Coutts' was much nearer than the Bank? But it was an historical fact, that the office was in Broad-street in the year 1786, when those transactions first took place. It was not removed till

1787.

1787. When the office was in Broad-street, would it have been possible for Trotter to tell Lord Melville that Coutts' was nearer than the Bank, and consequently more convenient? And as for the cash payments, the argument was quite against what the learned counsel had contended, for at that time cash was only to be got at the Bank, and paper was to be obtained at Coutts'.

" The confessions that had been made by Lord Melville himself, were endeavoured to be invalidated by his counsel. They said that Lord Melville was taken by surprise; that questions were asked him which he had no reason to expect; and that he had not time to frame the proper answers. But how was Lord Melville taken by surprize more than any other witness that was examined on a question of property?

" The very appointment of the Commissioners of Naval Enquiry, was a notice to him to be prepared to give an account of the transactions of his administration. His Lordship was apprized early in the year 1803, that such examination would take place. It was in the middle of 1803 that the precepts were issued: but his Lordship's final examination was not concluded until the 5th of November, 1804. Surely this could not be called taking his lordship by surprize. Mr. Trotter was examined early in 1803; and considering the habits of intimacy and daily intercourse between the noble defendant and Mr. Trotter, it is impossible to suppose that the latter did not immediately acquaint Lord Melville with the whole tendency of his examination, which would have sufficiently prepared his lordship for the questions which would probably be put to him. It would have been supposed, from the statement of the learned counsel, that a number of witnesses had been brought against the defendant from obscure parts of the city, and were prepared *unhooded* like hawks to pounce upon their prey. Lord Melville, however, wanted no foreknowledge of the nature of the questions that were to be put to him, and he came to his examinations prepared for them. The learned counsel had spoken of the magnanimity of his replies. Where was this magnanimity? Was it in putting himself under the protection of the 5th clause, and refusing to answer from fear of criminating himself? The honourable ma-

nager had heard of old clothes in one of the learned counsel's similes; but this fifth clause, if it could not be compared to an old coat, might better be called an 'auld claik.' It was this use the defendant seemed to make of it, and in coming to his examination, he had complied with the words of a Scottish song—

'Tak your auld claik aboot thee.'

"It was in this 'auld claik' that his Lordship's magnanimity (of which so much had been heard) took shelter. The noble defendant and his counsel said, that Trotter had been directed in June, 1803, to give every possible information to the commissioners; and yet, in November, 1804, he was unprepared for the examination, and on that account took advantage of the 5th clause of the statute. Mr. Trotter might, as Paymaster, have drawn the money out of the Bank by his own authority, or he might have given another person the authority of doing it by power of attorney: if then there were no design of a participation of the gains, there would have been no occasion to ask permission of Lord Melville to do that which he would have done without that permission. If such were to be the case, no limits could be set to the credit which the story of Trotter was to meet with. It was in vain to confound the cases of Trotter and Lord Melville, and to say that Trotter was much more guilty in those transactions than his Lordship. The situation that the public was placed in from the delinquency of the person who was at the head of the department, and from the fraud of a subordinate officer, was very different. If it were the subordinate person who was corrupt, while the head of the department was pure, there were many ways in which the corruption could be made known to the principal, and immediately punished; but when the head himself was corrupt, the detection was difficult, and next to impossible. In speaking of the ways the corruption of subordinate persons might be brought to light, it reminded him of an affecting story which he had heard. There was a prisoner confined for debt in a distant county; the hardships of the imprisonment, combined with the natural love of liberty, induced this man to attempt his escape. This attempt occasioned the goaler to take

more

more rigorous means of imprisoning him, and he was seen by one of his friends actually tied hand and foot to the floor. This friend immediately made a drawing of what he had seen, and took care that it should be directly sent to one of the principal officers under the government. The case was immediately enquired into, and redressed. In ways somewhat similar, it was always possible to inform the principal of the corruption or fraud of subordinate agents. But when the principal himself was corrupt, what means lay open for detection; and, above all, how was the corruption of Mr. Dundas to be detected, who united in himself so many of the principal offices of the state? If any man were disposed to make a complaint of the illegal and corrupt conduct of Mr. Trotter, where was he to go? If to the Treasurer of the Navy's office, there was Mr. Dundas, his friend and protector; if to the office of the Secretary of State, there he would meet Mr. Dundas again; or if he should think of going to the highest quarter, and complaining to that minister who was now no more, what redress could be had there? Mr. Pitt had been as completely deceived by Mr. Dundas, as Lord Melville's counsel would wish their Lordships to believe that he was deceived by Trotter. A complaint was in fact made to Mr. Pitt, and that from the highest authority, the Governor of the Bank of England; and yet Mr. Pitt, whose personal integrity was not doubted, placed so much confidence in the representations of Lord Melville, that no enquiry took place in consequence of that communication. If it was really ignorance of business that was the cause of Lord Melville's being so deceived, his ignorance had been of great service to him.—It would be folly to be wise, when ignorance could claim such great advantages which wisdom could not pretend to. The public money was exposed not only to risk, but to loss, for it was in evidence, that a large collection of navy bills were given to Mark Sprott to sell when navy bills were at a discount. The loss, however, the honourable manager confessed, was afterwards replaced; and when the learned counsel for the defendant asked so emphatically, 'Has the public lost a single farthing by these transactions;' and when they laid such a stress on the word *farthing*, he did not mean to say that it had actu-

ally lost, but what he contended was, that it had unnecessarily, and in a manner contrary to law, been exposed to risk and loss for the emolument of individuals, who had gained large sums by the illegal application of it. When they came to examine Mr. Trotter about his private fortune, and his means of acquiring it, he told the honourable manager, he began as a clerk at 50*l.* per annum: that that salary was afterwards increased to 100*l.*; and when he was paymaster, it amounted to 500*l.* a year: but of means so slender, he had amassed a fortune of between forty and fifty thousand pounds by his own confession. Mr. Trotter had told their Lordships with what indignation Lord Melville rejected the proposals he made to him, to apply part of the balances to the purchase of India Stock. The indignation of his Lordship at the proposal was so great, that he feared he had lost his Lordship's favour for ever. How then did it happen, that at the very moment of this indignant rejection, the confidence of Trotter was considerably increased? From that moment he made his speculations on a larger scale; and yet he would now persuade their Lordships, that the noble defendant knew nothing at all of those speculations, or that the public money was made profitable in his hands. Lord Melville did not go quite so far: he confessed, that he thought Trotter might make some small profits of the money, by getting a premium from the private banker on the lodgments; but he would have us believe, that he knew nothing about his speculations, or that he made any profits in that way. But how was it possible Lord Melville could be ignorant of Trotter's gains? When he was in the habit of daily and confidential intimacy with him, was it possible for him to be ignorant of Trotter's mode of living? He did not mean to say that there was any thing uncommonly sumptuous or profuse in Mr. Trotter's way of living, but he lived with the comforts, and in the style of a gentleman possessing two or three thousand a year. Did not Lord Melville know that he had purchased Dreghorn; and must he not have known that all this was done with the profits which he had made from the public money? It certainly could not have been from the savings of his salary of 50*l.* or 100*l.* a year, nor even from his salary of 500*l.* when he was

pay-

paymaster. Lord Melville must have been indeed most ignorant in matters of business, if he supposed that all this could have been done merely from the premiums a private banker would give for the lodgment of money in his hands. If Lord Melville could both believe this, and also believe that when the office was in Broad-street, Coutts' was nearer and more convenient than the Bank, he must indeed have been one of the most ignorant men, and most easily duped, of any that ever was supposed fit to be entrusted with high situations under the state."

The honourable manager said, that the Commons had proved all the articles of impeachment down to that which charged the noble defendant with corrupt participation, and observed upon the character of Lord Melville, in answer to the observations of the learned counsel, of the incompatibility of the meanness attributed to the noble defendant, and the profuse generosity he had always displayed; and he illustrated the observation from the passage in Sallust, in which he describes Catiline, '*Simulator ac dissimulator alieni appetens sui profusus*; ——*satis eloquentiæ, sapientiæ parum.*' Mr. Whitbread then commented on the inconsistency of the conduct of Lord Melville at the first interview with Mr. Trotter on the subject of India Stock, and in the sequel of that business, and on the impropriety of his becoming a speculator in that fund as President of the Board of Controul. He then proceeded :—

" The act of friendship on the part of Mr. Trotter, and the easy yielding of Lord Melville, were not hard to be understood. There was no occasion for him to hear, or for Trotter to tell him in express terms, from what funds the money came. They could have understood each other without the use of words; signs would have been sufficiently expressive. It might therefore very possibly be true that Trotter never did expressly tell his Lordship, that this accommodation was given on account of the profits that he made by his speculations with the public money: but could their lordships believe that he could really be ignorant of that fact? Lord Melville found in Trotter a willing agent, and proper to be employed on such occasions; and it might have been, that it was the meeting with such an agent, that suggested the idea

idea to his lordship. He found him fit and apt to be employed. It reminded him of the passage in Shakspeare's historical play of King John, when that sovereign wishing the death of Prince Arthur, he faintly mentioned it to Hubert, who zealously undertook it. When King John supposed the prince was murdered on this suggestion, his conscience smote him, and he reproached Hubert with it:

> 'How oft the sight of means to do ill deeds
> Makes ill deeds done! For hadst thou not been by,
> A fellow by the hand of nature marked,
> Quoted and sign'd to do a deed of shame,
> This murder had not come into my mind.'

And again,

> 'Hadst thou but shook thy hand, or made a pause,
> When I spake darkly what I purposed;
> Or turned an eye of doubt upon my face,
> Or bid me tell my tale in express words,
> Deep shame had struck me dumb, made me break off,
> And those thy fears might have wrought fear in me:
> But thou didst understand me by my *signs*,
> And didst in *signs* again parley with sin.'

"Trotter then understood the language of those signs, and ventured, without any more authority from Lord Melville, to carry his high name to the alley, and to the money brokers. It was enough to tell, that the President of the Board of Controul wanted money to purchase India Stock. The hint was soon taken, and the money was procured. Trotter indeed states, that upon these transactions he charged Lord Melville with an interest of five per cent.—but what was that to the person who lent the money without security? When Lord Melville was told, that a person of the name of Lind had lent him 1000*l.* could he have readily supposed that a stranger would lend him that money without a consideration, and without security? or could he have degraded himself so much, as to accept those presents and accommodations from strangers? It was evident, that the only ground on which Lord Melville could receive those great pecuniary accommodations, was on account of the profits which he permitted Trotter to make of the balances of public money. All the advantage then, which he derived from these accommodations, was clearly a corrupt participation

pation to that amount. A very short time after, the 14,600*l.* India Stock was purchased for the defendant; and he told Trotter he wished still farther to increase his India Stock; 2000*l.* more was purchased in his name without any consideration. Trotter himself says, he does not recollect, whether there was any conversation about the re-payment of this money, but Lord Melville regularly received the dividends. I cannot conceive that it is possible for any circumstantial evidence to prove more clearly, that Lord Melville knowingly participated in those profits to the amount I have stated; and if he participated knowingly, it was a corrupt participation. The learned counsel for the defendant, in their popular cross-examination, had got Trotter to say, that Lord Melville never knew of any purchases made with the public money, specifically, nor ever knowingly received any of the public money by that specific name; but the honourable manager had shewn that he must have known generally that the public money was so applied, and that he regularly received the dividends on what had been purchased in his name, although he advanced no part of the purchase money. The justification however, is, that he was a man so occupied in various departments, that he had little time to pay attention to the treasurership of the navy, and still less, to think of his own private affairs. As to the purchase of 10,000*l.* in the loyalty loan, this circumstance was introduced with great pomp and parade by his counsel, as if it were a great sacrifice which he made to the public good; and the authority of that minister, who is now no more, was brought forward to prove, that it was absolutely necessary for men in high situations, to set an example of contributing to that loan. He did not like this perpetual appeal to dead authority: he thought we had already a great deal too much of it. If their living measures would not support them, it would be in vain to bolster them up by the great name and reputation of a person now in his grave. The name of that man was now brought forward to support every measure that his friends wished to carry. He did not like their eternally dragging the corpse of Cæsar into public view. It was a trick, that, if played off much longer would entirely lose its stage effect, and be of no further

use. If it be said that Mr. Pitt also purchased in the loyalty loan, the nation has nothing to do with it. Whatever might have been the loss upon it, came among his private debts: the nation has paid those debts, and he himself cheerfully voted for the payment of them. But did any body ever say that Mr. Pitt applied the money of the public to his private speculations, as Lord Melville had done? He believed that he would have died rather than have done it. There was no manner of comparison between Mr. Pitt and Lord Melville in this respect; and while the name of the one is held up to honour, the name of the other was handed down to you for conviction. Such acts as he had committed, were not the effects of negligence. The honourable managers charge, and they think they have proved, as far as the evidence of circumstances can prove it, that corruption was in his mind at the time he directed those purchases of India stock to be made, which stock was bought from the profits of the public money, and transferred by his private letter of attorney. As to the loyalty loan stock, Trotter said it was transferred to the chest account. The defendant ought to have told their lordships what was this chest account. It was an account that must be known, and ought to have been produced. In the chest account, the chest was always debtor to the public; and yet, instead of discharging any of those debts, two sums of money are taken from it as loans, without interest, to purchase stock in the name, and for the separate use of Lord Melville. Advances had also been made for the payment of private debts in Scotland. There was another account, the account current, which generally stood much against the defendant, and in which he was usually debtor from 10 to 20,000*l.* It was strange too, that in this account current between Lord Melville and Trotter, he should have been so much in arrears, when at that time Trotter had only a salary of 100*l.* At that time, in the year 1786, a sum of 4,000*l.* was advanced to Lord Melville by Trotter, without any interest being charged upon it; how could he expect a clerk at 100*l.* a year, to lend him 4,000*l.*; or if he had procured it from his friends, how could he have thought of accepting it without interest? That account was, however, all entered in the books which had been destroyed,

destroyed, and now no accounts could be obtained except from Trotter. It appeared, however, from that account, that securities to the amount of 51,000*l.* bought with the public money, had been at one time put at the disposal of Mr. Mark Sprott, to take to the market, and sell when he judged proper. It appeared that the account current was generally against Lord Melville, and the chest account always: and yet Trotter was at the same time agent to Lord Melville in all his private affairs, without ever receiving any gratuity whatever. Under those circumstances, how could Lord Melville possibly accept the services of Trotter without giving him any compensation? It was evident, that he knew that abundant compensation had been given him in another way, and that he was well repaid by the profits he permitted him to make of the public money. He came now to the destruction of papers and vouchers. First, as to the release itself, how was it prepared? It was prepared by the same person who was solicitor both to Lord Melville and to Trotter. At the time of the execution of the release, Lord Melville was in Scotland, and Trotter was in London. What was the urgent necessity of this release, and the consequent destruction of the papers and vouchers? It was clearly because the Commission of Naval Enquiry had been instituted, and those accounts would not bear examination. The destruction of papers and vouchers, is at all times, but more particularly at such a time, a strong presumption of fraud. It is considered so in every court of justice, and in every country; and the noble Lord could not have been ignorant of this principle, which is no where more strongly relied upon than in the laws of Scotland, and in the tribunals of that country.

In every court in this country whether of civil or criminal jurisprudence, the destruction of evidence is taken as strong testimony against the party who destroys it. A case had been put by a learned manager (the Solicitor General) of a person, charged with murder, having been proved to have destroyed the cloaths he wore on the day the murder was committed, and he asked, would not a jury presume from the destruction of the cloaths, that they were stained with the blood of the person murdered?

It had been answered by the counsel for the defendant, that this circumstance would not by itself be sufficient to presume guilt. The learned manager did not say it would be of itself; but he said, that coupled with other circumstances, it must have a powerful weight with a jury. There was a remarkable trial which was a very general subject of conversation at that time when Captain Donnelan was tried for the murder of Sir Theodosius Boughton, and the strongest evidence which appeared against him, was the cleaning the bottle which had contained the poison. Judge Buller laid considerable stress on this circumstance in his summing up, and every one recollects what impression it made upon the public mind at that time. Why should Captain Donnelan have taken the pains to clean the phial, if he had not known that it contained poison? A similar circumstance had been strongly dwelt upon in the trial of Miss Blandy, for the murder of her father. It was proved, that she had endeavoured to destroy the paper which contained the arsenic which poisoned him. The paper was wrested from her, but the attempt to destroy it was a circumstance strongly dwelt upon by the learned judge who presided at the trial. The honourable manager did not say, that the destruction of evidence of itself amounts to a proof of guilt, but what he asserted was, that coupled with other circumstances, it must have the most powerful effect. There was no circumstance that he knew, which can induce so strongly the presumption of guilt, as the very means by which the guilt or innocence would be proved.—However impatient Trotter might have been to destroy, why should Lord Melville wish to destroy them? If he destroyed those useful papers, he left himself without testimony or vouchers of Trotter's account with him. What object could Lord Melville have had, in destroying those papers if they contained nothing which could involve him? Their Lordships had been told, that after Lord Melville had returned to Scotland, he had been employed in selecting the papers which he was to destroy, and among the papers he did so select, were the accounts of his administration. Why were those papers committed to the flames, or how could he suppose them useless papers, when he knew that a Commission

mission of Naval Enquiry had been instituted for the express purpose of examining into matters of this sort? This negligent man, as he was described to be, spent the early part of 1803 in arranging his papers, but not in examining the account. When the papers were obliterated, that he had selected for destruction, he then executed a release in Scotland, and shortly afterwards came up to London in triumph, with his pocket full of proxies to overturn the administration under which those Commissioners had been appointed; upon this destruction of papers, and this release the honourable manager did rely as one of the strongest evidences which circumstances could afford of the fraud of the noble defendant.

He had now gone through a statement of the evidence produced by the Commons, and he trusted he had omitted nothing that was material, and he hoped he had argued nothing unfairly. A great deal of testimony had been brought forward to establish the guilt of the noble defendant, but none had been produced to prove his innocence. If it had been possible for him to give any explanation of those circumstances, and he had not done it, Oh miserable man! how has he been defended! If it had been possible for him to have called witnesses to establish his innocence, and none such had been called, Oh miserable man! how has he been defended! Was it not to be supposed that when a host of witnesses had been produced against him, he on his part, should have produced some to invalidate the testimony, or to turn the blame on others? What sort of defence had been set up by his counsel? They were attacked in their entrenchments and they retreated to the fosse: pursued to the fosse, they absconded it, and flew to the postern: they seemed perfectly content to carry off the body of Lord Melville, and left his reputation to shift for itself. There were modes of defence by which a man of Lord Melville's rank and situation might have freed himself from an accusation like the present, and instead of having his character impaired, would have come from his trial with greater advantage and increased reputation. If he could have shewn his innocence and purity; if he could have rested his defence on truth, he might have been borne in triumph on its resplendent base, and his fame, so far from suffering, would have been

been greatly increased. But when he had been defended merely on quirks and quibbles, the honorable manager must again say, Oh miserable man! to be reduced to the necessity of resting his honor on such a defence! Nothing more remained for the managers, than to call upon their Lordships for that verdict, which the Commons had a right to expect. They had discharged their duty to the country, and they trusted with fairness and moderation. The counsel for the noble defendant had often mentioned, that the task of the managers was an invidious one. They had felt it in many respects painful, but although it had been painful, and in some degree invidious, yet a duty to the country obliged them to persevere. If any odium was attached to it, they were fully prepared to encounter it. In the days of chivalry they had heard of a French Knight (Le Chevalier Bayard) who so conducted himself through life, as to gain the distinguishing appellative of the Knight '*sans peur et sans réproche.*' The managers of the Commons of the United Kingdom had entered upon the discharge of their duty without fear, and they trusted they had fulfilled it without reproach."

Mr. Whitbread having then concluded, the Lord Chancellor informed the Counsel for the defendant, that as the Attorney General had cited cases against the doctrine which they contended was law; they had the privilege of answering those cases, or observing upon them, but not of entering upon any other subject. The Managers would likewise have the privilege of replying to their observations on those cases, subject to the same limitation.

Mr. Plomer said he should content himself with pointing out the difference between the case that was quoted of the King and Bainbridge, and the present case. In the case that had been quoted, it appeared from the record, that there had been a fraudulent subtraction of the loan of 48,000*l.* at the time that Lord Holland was Paymaster, which was clearly an indictable offence. The learned counsel then read, at length, the record of the case of the King against Bainbridge, to shew the difference.

The Attorney General, in reply, read the opinion delivered by Lord Mansfield on that case. It had been argued that it was only a civil injury, a fraud, a breach, of trust, and not an indictable offence; but Lord Mansfield held, that a person who accepted a public office of trust, attended with emolument to himself, must certainly, as a public officer, be amenable to the King, and liable to be prosecuted by information, for the violation of his trust; and, as it was a matter in which the public was concerned, he held it as an indictable offence.

The Court then adjourned.

SIXTEENTH DAY.

THURSDAY, JUNE 12.

THIS morning, according to appointment, the Peers assembled in their chamber, and proceeded in the usual order to their respective places in Westminster Hall.

The Lord Chancellor having taken his seat on the woolsack, presently rose, and addressed their Lordships, observing, that they had heard the evidence on the charges exhibited against Henry Lord Viscount Melville, and that they were now to give their determination thereon. The first question was, whether Henry Lord Viscount Melville was guilty of the high crimes and misdemeanors stated in the first article of the charge.

His Lordship then addressing the junior peer, said, "What says your Lordship to this article of the charge?" He then asked each individual peer the same question, until advancing through the different ranks he rose to his Royal Highness the Duke of York. After the judgment of that illustrious person had been given, the Lord Chancellor signified his own decision in the formula adopted, "Guilty, or not guilty, upon my honor."

In this manner their Lordships proceeded through each distinct article of the charge, after which the numbers were calculated, and the Chancellor rising from the woolsack, announced to the court, that Lord Melville was acquitted of the high crimes and misdemeanors charged against him.

He then addressed the person accused in the following terms:

"I am to acquaint you, Henry Lord Viscount Melville, that you are acquitted of the articles of impeachment exhibited against you by the Commons of the

United Kingdom, for high crimes and misdemeanors, and of all matters therein contained."

The trial being thus terminated, at about four o'clock P. M., their Lordships returned to the chamber of Parliament in the same order in which they had entered the hall.

The number of votes on each side, on each charge, was correctly as follows:

	Guilty	*Not Guilty*	*Majority*
First Charge	16	119	103
Second ditto	56	79	23
Third ditto	52	83	31
Fourth ditto	None	All	—
Fifth ditto	4	131	127
Sixth ditto	48	87	39
Seventh ditto	50	85	35
Eighth ditto	14	121	107
Ninth ditto	16	119	103
Tenth ditto	12	123	111

Their Royal Highnesses the Dukes of York, Cumberland, and Cambridge, and his Highness the Duke of Gloucester, generally voted the same way, not guilty; and their Royal Highnesses the Dukes of Clarence, Kent, and Sussex, generally guilty, except on the 4th article, on which all were unanimous for acquittal.

The Lord Chancellor generally voted with the Dukes of Clarence, Kent, and Sussex. The Prince of Wales was not present.

THE END.

APPENDIX.

APPENDIX.

A.

An ACCOUNT *of the Balances of the* PUBLIC MONEY *in the Hands of the* TREASURER *of the* NAVY, *his different Cashiers, or Sub-Accountants, made up to the 31st December in the following Years; with the Amount of Sums standing in the Treasurer's Name in the Bank, at such Periods.*

31st day of December	1784			1785			1786			1787			1788			1789		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
The Treasurer of the Navy	70,831	13	7	113,651	16	7	81,942	0	1	459,369	11	8	57,719	8	11¼	106,281	15	10¼
Cashier of the Navy - -	30,081	1	6½	18,007	6	9½	1,527	12	6¾	5,026	16	4½	1,954	14	9	6,894	5	7¼
Do. of the Victualling -	10,662	9	11½	27,914	8	6¼	6,331	10	2½	7,943	8	5½	3,980	8	7½	5,839	5	8¼
Deputy Paymaster - - -	13,943	4	5¼	20,619	3	0	19,585	3	8¾	52,140	6	2¼	58,251	13	8	65,891	2	1¾
Cashiers at Portsmouth - -	3,952	16	2½	1,201	16	9¾	6,810	1	3¾	52,052	7	5½	43,963	9	2½	42,539	14	10
Do. - - Plymouth - -	15,252	15	2¾	27,712	12	6¾	30,151	5	11½	36,121	14	9	30,794	5	5½	41,180	6	4
Do. - - Chatham - -	32,988	8	4½	32,900	18	1¾	35,562	4	9	39,914	17	5	37,063	4	4¼	38,585	17	6
Do. - - Sheerness - -	—			—			—			—			—			—		
Cashier of Allotments - -	—			—			—			—			—			—		
Exchequer Fees - - - - -	3,000	0	0	3,812	13	6	6,000	0	0	6,000	0	0	4,503	8	9	7,503	8	9
l.	180,692	9	11	275,820	15	11	185,939	18	7¼	658,269	2	10¼	238,820	14	4	315,065	17	1¼
Balances of Account of the Treasurer of His Majesty's Navy, in the Bank at the periods above stated - -	64,331	13	7	9,026	10	8	25,942	0	1	406,269	11	8	9,179	11	11	52,431	15	10

An ACCOUNT *of the Balances of* PUBLIC MONEY *in the Hands of the* TREASURER *of* HIS MAJESTY'S NAVY, *his different Cashiers or Sub-Accountants, made up to the 31st of December in each Year, since 1790; with the Amount of the Sums standing in the Treasurer's Name in the Bank at such Periods.*

31st December	1790			1791			1792			1793			1794			1795		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d*	*l.*	*s.*	*d*	*l.*	*s.*	*d*	*l.*	*s.*	*d.*
The Treasurer of the Navy	102,897	16	1½	93,143	7	2	88,219	1	5	148,012	9	0	190,119	5	5	555,755	4	2
Cashier of the Navy - -	10,792	2	9½	27,487	13	3½	21,856	6	7¼	54,636	18	0	70,181	19	11	183,400	14	5½
Do. of the Victualling -	3,109	10	8¼	26,926	11	4	8,684	10	7	20,041	15	11½	88,193	9	8½	86,070	14	7½
Deputy Paymaster - - -	81,276	11	5¼	68,007	10	0½	77,221	14	10½	73,583	9	1¾	75,404	17	0	77,724	9	4
Cashiers at Portsmouth -	66,086	12	0	52,854	0	2	49,327	1	1¼	88,209	6	4½	114,829	14	11	76,132	14	10¼
Do. - - Plymouth - -	61,195	14	7¼	51,047	5	4½	47,308	4	5½	72,074	11	0	94,963	8	8¼	75,797	1	11¼
Do. - - Chatham - -	53,995	10	4¼	49,318	11	1¾	37,212	15	3¼	56,943	11	4¼	59,532	8	6	60,167	9	4½
Do. - - Sheerness - -	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cashier of Allotments - -	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2,249	12	9¼
Exchequer Fees - - - -	6,509	14	10	7,167	16	6	6,702	6	11	5,780	9	9	7,668	1	6	13,668	1	6
Aggregate of Treasurer's Balances } *L*	385,863	12	8	376,246	15	0¼	336,532	1	0¼	519,273	10	7	700,833	5	2¾	1,130,966	3	0¼
Balances of Account of the Treasurer of His Majesty's Navy at the Bank, at the Periods above stated - - - - - -	102,897	16	1	73,454	17	6	61,742	1	9	120,986	11	3	161,900	17	8	525,438	8	1

An ACCOUNT *of the Balances of* PUBLIC MONEY *in the Hands of the* TREASURER *of* HIS MAJESTY'S NAVY, *&c. &c. &c.*

31st December	1796			1797			1798			1799			1800			1801			1802		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
The Treasurer of the Navy	255,261	11	9	160,453	8	4	196,301	10	6	353,051	4	0	386,422	9	6	429,663	0	0	127,000	0	0
Cashier of the Navy - -	63,900	9	11	144,907	15	11½	109,724	6	0	93,746	2	1¾	121,131	11	8½	1,605	11	1	6,098	8	1½
Do. of the Victualling -	11,059	1	2	39,074	8	8½	54,969	1	6¼	50,356	11	7¾	60,221	6	5¾	75,410	12	11¼	16,969	11	0¾
Deputy Paymaster - -	71,485	19	10	33,246	0	6½	33,567	12	11½	33,995	17	8¾	49,026	10	9½	52,130	17	3	7,686	8	2
Cashiers at Portsmouth -	79,231	5	1	80,344	4	0½	24,036	6	6¼	26,955	16	5¼	76,117	1	5¾	124,410	14	1¾	16,947	9	9¼
Do. - - Plymouth - -	76,879	11	0¾	34,561	14	11	39,749	14	6	40,314	7	11¾	101,617	14	6½	125,340	0	9	32,549	16	8¼
Do. - - Chatham - -	69,206	17	8¼	23,154	13	1¾	16,898	3	9	28,580	18	10¼	42,664	14	7¾	61,273	0	4½	29,130	14	8
Do. - - Sheerness - -	-	-	-	-	-	-	-	-	-	-	-	-	39,601	11	6¾	54,591	17	6	475	8	6¾
Cashier of Allotments - -	2,469	7	1½	2,682	17	9	17,260	15	5¼	44,364	1	5¾	4,919	11	3¾	6,694	19	6	12,125	18	0¾
Exchequer Fees - - - -	9,484	4	1½	12,178	6	7	12,278	17	11	21,278	17	11	11,587	6	7	12,765	19	11	12,546	7	7
Aggregate of Treasurer's Balances *L*	638,978	8	6	180,903	9	11¾	504,786	9	1¼	687,623	18	0¼	896,509	18	4¾	1,217	13	5½	268,230	3	9½
Balances of Account of the Treasurer of His Majesty's Navy at the Bank, at the Periods above stated - - - - - -	179,848	6	9	101,812	13	6	142,160	15	6	298,910	9	0	386,422	9	6	429,663	0	0	127,000	0	0

(Signed) *Thomas Wilson.*

B.

An ACCOUNT *of the Balance of* PUBLIC MONEY *with which the Right Honourable* HENRY DUNDAS, *now Lord Viscount* MELVILLE, *Treasurer of the Navy, stood charged on the 31st December 1785, when the old Mode of Account ceased, agreeably to the Directions of the 25th of His present Majesty, cap. 31; shewing also the Sums received and paid by him; and the Amount of his Balance on the 31st Dec. in each succeeding Year.*

YEAR	BALANCE on 31st Decemb. in each preceding Year, brought forward.			SUMS Received.			TOTAL.			Amount of PAYMENTS in each Year.			BALANCE on the 31st December in each Year.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
1786	275,820	15	11	56,770	11	3	332,591	7	2	299,410	4	5¼	33,181	2	8¾
1787	33,181	2	8¾	14,843	18	11	48,025	1	7¾	24,432	6	9	23.592	14	10¾
1788	23,592	14	10¾	14,462	4	10	38,054	19	8¾	20,077	4	11¼	17, 77	14	9½
1789	17,977	14	9½	11 054	7	1	29,032	1	10½	11,531	6	2¼	17,500	15	8¼
1790	17,500	15	8¼	500	0	0	18,000	15	8¼	5,005	5	11	12,995	9	9¼
1791	12,995	9	9¼	.....			12,995	9	9¼	1,739	10	11¾	11, 55	18	9½
1792	11,255	18	9½	29	15	11	11,285	14	8½	2,017	19	11¼	9,267	14	9¼
1793	9,267	14	9¼	3,029	15	11	12,297	10	8¼	2,345	1	0	9,952	9	8¼
1794	9,952	9	8¼	.....			9,952	9	8¼	2,774	16	0	7,177	13	8¼
1795	7,177	13	8¼	10	12	2	7,188	5	10½	868	13	2¾	6,319	12	7½
1796	6,319	12	7½	.....			6,319	12	7½	84	4	0	6,235	8	7½
1797	6,235	8	7½	.....			6,235	8	7½	121	6	4	6,114	2	3½
1798	6,114	2	3½	.....			6,114	2	3½	160	2	6¼	5,953	19	9¼
1799	5,953	19	9¼	.....			5,953	19	9¼	40	9	1	5,913	10	8¼
1800	5,913	10	8¼	.....			5,913	10	¼	51	10	11¾	5,861	19	8½
1801	5,861	19	8½	.....			5,861	19	8½	46	14	10½	5,815	4	10¼
1802	5, 15	4	10¼	.....			5,815	4	10¼	77	9	5¼	5,737	15	7
1803	5,737	15	7	.....			5,737	15	7	90	14	8	5,647	0	11

C.

A General STATEMENT *of the Annual* RECEIPTS, PAYMENTS, *and* BALANCES *of the* TREASURERS *of* HIS MAJESTY'S *Navy, from the Year* 1786 *to* 1803, *inclusive; viz.*

YEAR.	BALANCE brought from the preceding Year.			SUMS received within the Year.			TOTAL.			SUMS paid within the Year.			BALANCE on the 31st December in each Year.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
1786	.....			2,851,571	10	11½	2,851,571	10	11½	2,665,631	12	4½	185,939	18	7½
1787	185,939	18	7¼	2,454,469	3	2¾	2,640,409	1	9½	1,981,839	18	10¾	658,569	2	10¾
1788	658,569	2	10¾	2,266,897	0	11¼	2,925,466	3	10	2,686,645	9	6	238,820	14	4
1789	238,820	14	4	2,340,768	17	8	2,579,589	12	0	2,264,523	14	10½	315,065	17	1½
1790	315,065	17	1½	2,658,626	6	7¾	2,973,692	3	9¼	2,587,828	11	1½	385,863	12	8
1791	385,863	12	8	3,709,566	19	7¼	4,095,430	12	3¼	3,719,183	17	3	376,246	15	0¼
1792	376,246	15	0¼	2,828,222	7	1½	3,204,569	2	1½	2,868,037	1	1½	336,532	1	0¼
1793	336,532	1	0¼	3,454,510	4	5	3,791,042	5	5¼	3,271,768	14	10¼	519,273	10	7
1794	519,273	10	7	3,677,018	5	1	4,196,291	15	8	3,495,458	10	5½	700,833	5	2¾
1795	700,833	5	2¾	9,983,677	9	4¾	10,684,510	14	7½	9,551,544	11	7½	1,132,966	3	0¼
1796	1,132,966	3	0¼	7,858,198	18	7½	8,991,165	1	7¾	8,352,186	13	6¾	638,978	8	1
1797	638,978	8	1	13,052,846	12	0½	13,691,825	0	1½	13,210,921	10	6¾	480,903	9	6¾
1798	480,903	9	6¾	12,515,676	3	3	13,026,579	12	9¾	12,521,793	4	1½	504,786	8	8¼
1799	504,786	8	8¼	13,343,099	0	0¼	13,847,885	8	8½	13,160,261	11	1½	687,623	17	7¼
1800	687,623	17	7¼	15,740,353	2	6¼	16,427,977	0	1½	15,531,467	2	1¾	896,509	17	1¾
1801	896,509	17	11¾	19,042,010	7	0¾	19,938,520	5	0¾	18,987,302	11	7	951,217	13	5½
1802	951,217	13	5½	14,110,172	10	1¼	15,061,390	3	6¾	14,294,621	10	2¾	766,768	13	4½
1803	266,768	15	4½	8,368,025	5	0¼	8,634,791	0	4¾	7,929,766	15	8⅜	705,027	6	8

Exd. *Geo. Fennell,*
Accountant to the Treasurer of His Majesty's Navy.

D.

A GENERAL STATEMENT *of the* MONTHLY RECEIPTS, PAYMENTS, *and* BALANCES *of the* TREASURERS *of His* MAJESTY'S *Navy, for the Years* 1796 *and* 1800; *viz.*

YEAR	MONTH.	BALANCE brought from the preceding Month.			SUMS Received within the Month.			TOTAL.			SUMS Paid within the Month.			BALANCE at the End of each Month.		
		l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s*	*d.*
1796	January ..	1,132,966	3	0¼	897,851	12	10½	2,030,817	15	10¾	1,093,347	4	5	937,470	11	5¾
	February ..	937,470	11	5¾	699,505	1	0¼	1,636,975	12	6	764,786	13	2½	872,188	14	3½
	March	872,188	14	3½	787,656	15	3	1,659,845	9	6½	852,447	19	4½	807,397	10	2¼
	April	807,397	10	2¼	163,854	0	4¾	971,251	10	7	710,301	6	6¾	260,950	4	0½
	May.....	260,950	4	0½	493,744	7	5¾	754,694	11	6	420,949	11	0½	333,745	0	5¾
	June.....	333,745	0	5¾	560,416	1	4¾	894,161	1	10	367,923	18	4½	526,237	3	5¼
	July.....	526,237	3	5½	665,607	7	4¼	1,192,844	10	9¾	541,236	9	5½	651,608	1	4¼
	August ..	651,608	1	4½	344,566	2	8½	996,174	4	1	579,747	12	0½	416 426	12	0¾
	September -	416,426	12	0½	673,202	1	8¾	1,089,628	13	9½	459,917	8	7	629,711	5	2¼
	October ..	629,711	5	2¼	460,078	9	9¾	1,089,789	15	0	612,030	5	4	477,759	9	8
	November -	477,759	9	8	920,404	19	11¾	1,398,164	9	7¾	906,524	11	10¾	491,639	17	9
	December -	491,639	17	9	1,190,311	18	8	1,681,951	16	5	1,042,973	8	4	638,978	8	1
1800	January ..	687,623	17	7¼	1,590,412	18	5½	2,278,036	16	0¾	1,211,064	11	2½	1,066,972	4	10¼
	February ..	1,066,972	4	10¼	570,284	8	3	1,637,256	13	1½	1,168,193	3	1¾	469,063	9	11½
	March	469,063	9	11½	1,150,238	9	1	1,619,301	19	0½	1,126,713	13	0½	493,188	6	0¼
	April	493,188	6	0¼	1,368,890	5	1	2,062,078	11	1¼	1,224,207	10	0½	837,871	1	1
	May.....	837,871	1	1	1,391,311	12	5	2,229,182	13	6	1,6 0 093	19	9¾	609,088	13	8¼
	June.....	609,088	13	8¼	1,261,089	1	5¼	1,870,177	15	1½	1,241,280	15	5¼	625,896	19	8¼
	July.....	625,896	19	8¼	1,790,088	18	4½	2,415,985	19	0½	1,781,616	6	7½	634,369	11	5
	August....	634,369	11	5	1,176,044	17	7½	1,810,414	8	10¾	1,308,503	6	5¾	501,911	2	8
	September -	501,911	2	8	1,268,270	17	8½	1,770,182	0	4½	1,29 ,070	16	4¾	470,111	3	11¾
	October ..	470,111	3	11¾	1,592,551	16	0¾	2,062,663	0	0	1,439,004	9	4¼	623,658	10	7¾
	November -	623,658	10	7¾	908,135	8	4	1,531,773	18	1¾	1,144 959	18	9¾	387,814	5	2
	December -	387,814	5	2	1,477,454	9	10¾	1,865,288	15	0¾	968, 5	17	1	896,509	17	1¾

Fid. Geo. Fennell.
Accountant to the Treasurer of His Majesty's Navy.

APPENDIX

NAVY OFFICE, 19th January, 1805.

An ACCOUNT, *shewing the Unassigned* GENERAL BALANCE *of the* TREASURER *of* HIS MAJESTY'S NAVY, *on the 31st of December in each Year, from* 1786, *to* 1803, *both inclusive:—Prepared according to the following Form, pursuant to a Precept of the Commissioners for Naval Enquiry, dated the 3d of January,* 1805.

YEAR	Unassigned BALANCE brought from the preceding Year.			SUM Received within the Year, except on the Head of Transports, for the Years 1794, 1795, & 1796.			TOTAL of the Two preceding Columns.			TOTAL of ASSIGNMENTS on the Treasurer, by the Navy, Victualling, Sick and Hurt and Transport Boards (except for the latter in the Years 1794, 1795, and 1796, and of Payment in the Wages Branch			UNASSIGNED GENERAL BALANCE on the 31st December in each Year, which includes the Sums in the Hands of the Sub-Accountants in Town and at the Out-Ports.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
1786	.....			2,600,223	2	5¾	2,600,223	2	5¾	2,444,161	9	9½	156,061	12	8
1787	156,061	12	8	2,452,549	3	2¼	2,608,610	15	10¼	2,341,470	1	9¾	267,140	14	7½
1788	267,140	14	7½	2,266,897	0	1¼	2,534,037	15	0¾	2,319,619	4	7½	214,418	10	11½
1789	214,418	10	11½	2,325,098	11	11	2,539,517	2	10½	2,281,753	2	11½	257,763	19	11
1790	257,763	19	11	2,658,626	6	7¾	2,916,390	6	6¾	2,577,315	19	8¾	339,074	6	10
1791	339,074	6	10	3,709,566	19	7½	4,048,641	6	5½	3,718,520	0	6¾	330,121	5	10½
1792	330,121	5	10½	2,828,322	7	1¼	3,158,443	13	0	2,855,550	9	6½	302,893	3	5½
1793	302,893	3	5½	3,157,510	4	5	3,460,403	7	10½	3,032,976	9	7	427,426	18	3½
1794	427,426	18	3½	3,660,013	5	1	4,087,445	3	4½	3,478,184	10	5½	609,260	13	1½
1795	609,260	13	1½	9,824,909	6	1½	10,434,169	19	3½	9,962,357	3	0	471,832	16	3½
1796	471,832	16	3½	7,209,066	12	6½	7,680,899	8	10	7,224,759	18	5¾	456,139	10	4¼
1797	456,139	10	6¼	12,849,892	0	1½	13,306,031	10	7¾	12,984,860	19	6¾	321,170	11	1
1798	321,170	11	1	12,518,673	4	1	12,839,843	15	2	12,412,220	1	11	427,623	13	3
1799	427,623	13	3	13,316,166	18	5¼	13,743,790	11	8¼	13,211,165	16	7¾	532,624	15	0½
1800	532,624	15	0½	15,682,191	9	5¼	16,215,116	4	5¾	15,441,681	3	11⅝	773,435	0	6
1801	773,235	0	6	19,020,732	1	3¼	19,793,967	1	9¼	19,022,451	16	9¼	771,515	5	0
1802	771,515	5	0	14,079,086	1	1¾	14,850,601	6	1¾	14,614,322	10	4¾	236,278	15	8¼
1803	236,278	15	8½	8,286,025	5	0¾	8,522,304	0	8¾	7,955,187	16	10	567,116	3	10¾

A. S. Hamond. *W. Palmer.* *S. Gambier.* *F. J. Hartwell.*

F.

The RETURNS *made to the* PRECEPTS *of the Commissioners of Naval Enquiry, commencing with the Year* 1784, *and terminating with* 1802, *by which it is seen, that the Sums standing in the Name of the* TREASURER *of the* NAVY *at the Bank, were generally much less than the unappropriated Balances.*

TIME.	TREASURER's Aggregate Balance or Charge.			In the Hands of his Sub-Accountants.			In the BANK of ENGLAND.			DEFICIENCY.		
	l.	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*	*l.*	*s.*	*d.*
31st. Dec. 1784	180,692	9	11	109,860	16	4	64,331	13	7	6,500	0	0
..... 1785	275,820	15	11	162,168	19	4	9,026	10	8	104,625	5	11
..... 1786	185,939	18	7½	103,997	18	6¼	25,942	0	1	56,000	0	0
..... 1787	658,569	2	10¾	199,199	11	2¾	406,269	11	8	53,100	0	0
..... 1788	238,820	14	4	181,041	5	4¼	9,179	8	11	48,600	0	0¼
..... 1789	315,065	17	1½	208,784	1	3¼	52,481	15	10	53,800	0	0¼
..... 1790	385,863	12	8	282,965	16	6½	102,397	16	1	—		
..... 1791	376,246	15	0½	282,803	7	10¼	73,454	17	6	19,988	9	8
..... 1792	336,532	1	0¼	248,312	19	7¼	61,742	1	9	26,476	19	8
..... 1793	519,273	10	7	371,261	1	7	120,986	14	3	27,025	17	9
..... 1794	700,833	5	2¾	510,713	19	9¼	161,360	17	8	28,758	7	9
..... 1795	1,132,966	3	0¼	577,210	18	10¼	525,458	8	1	30,316	16	1
..... 1796	638,978	8	6	383,716	16	9	179,848	6	9	75,413	5	1
..... 1797	480,903	9	11¾	320,450	1	7¾	101,812	13	6	58,640	14	10
..... 1798	504,786	9	1¼	308,484	13	7¼	142,160	15	6	54,140	15	0
..... 1799	687,623	18	0¼	334,572	14	0¼	298,910	9	0	54,140	15	0
..... 1800	896,509	18	4¾	510,087	8	10¼	386,422	9	6	—		
..... 1801	951,217	13	5½	521,554	13	5½	429,663	0	0	—		
..... 1802	268,232	3	9½	141,232	3	9½	127,000	0	0	—		

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The trial

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